



Queensland

# **Disability Services and Other Legislation (Worker Screening) Amendment Bill 2020**





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# Disability Services and Other Legislation (Worker Screening) Amendment Bill 2020

## Contents

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|               |   | Page |
|---------------|---|------|
| <b>Part 1</b> | <b>Preliminary</b>  |      |
| 1             | Short title .....   | 16   |
| 2             | Commencement .....  | 16   |
| <b>Part 2</b> | <b>Amendment of Disability Services Act 2006</b>  |      |
| 3             | Act amended .....   | 16   |
| 4             | Amendment of s 6 (Objects of Act) .....   | 16   |
| 5             | Amendment of s 7 (How objects are mainly achieved) .....  | 17   |
| 6             | Amendment of s 12 (What are disability services) .....  | 17   |
| 7             | Insertion of new s 12A .....  | 17   |
|               | 12A What are NDIS supports or services .....  | 17   |
| 8             | Amendment of s 13 (Meaning of service provider) .....   | 17   |
| 9             | Replacement of ss 15–16A .....  | 18   |
|               | 14 Meaning of funded service provider .....   | 18   |
|               | 15 Meaning of NDIS service provider .....   | 18   |
|               | 16 Meaning of NDIS sole trader and State sole trader ..   | 18   |
| 10            | Amendment of s 18 (Principle that people with a disability have the same human rights as others) .....            | 19   |
| 11            | Replacement of pt 5 (Screening of particular persons engaged by department or particular service providers) ..... | 19   |
|               | Part 5 Disability worker screening and related requirements   |      |
|               | Division 1 Preliminary  |      |
|               | Subdivision 1 General   |      |
|               | 40 Main purposes of part .....  | 20   |
|               | 41 Paramount consideration .....  | 20   |
|               | 42 Part applies despite Criminal Law (Rehabilitation of Offenders) Act 1986 .....                                 | 20   |
|               | 43 Exemption for secondary school student on work experience  |      |

Contents

---

|               |   |    |
|---------------|---|----|
|               | .....   | 20 |
| Subdivision 2 | Interpretation  |    |
| 44            | When a person is engaged to carry out work for entity   | 21 |
| 45            | Meaning of NDIS disability work and risk-assessed NDIS work   | 22 |
| 46            | Key personnel of NDIS service provider taken to be engaged in risk-assessed NDIS work                             | 23 |
| 47            | Meaning of State disability work  | 24 |
| 48            | When person is engaged to carry out State disability work   | 24 |
| 49            | Particular members or officers taken to be engaged in State disability work for funded service provider           | 25 |
| 50            | Meaning of clearance and types of clearances  | 25 |
| 51            | Meaning of exclusion and types of exclusions  | 26 |
| 52            | Meaning of notifiable person  | 26 |
| Division 2    | Requirements related to persons carrying out disability work  |    |
| Subdivision 1 | NDIS disability work  |    |
| 53            | Registered NDIS provider engaging person to carry out risk-assessed NDIS work                                     | 28 |
| 54            | Carrying out risk-assessed NDIS work without NDIS clearance or interstate NDIS clearance prohibited               | 29 |
| 55            | Engaging person with NDIS exclusion or interstate NDIS exclusion prohibited                                       | 30 |
| 56            | Engaging person with suspended NDIS clearance or interstate NDIS clearance, or subject to interim bar, prohibited | 31 |
| 57            | Holder of NDIS exclusion or interstate NDIS exclusion prohibited from carrying out NDIS disability work           | 32 |
| Subdivision 2 | State disability work   |    |
| 58            | Funded service provider must prepare annual risk management strategy  | 32 |
| 59            | Funded service provider engaging person to carry out State disability work  | 33 |
| 60            | Engaging person with suspended clearance, or subject to interim bar, prohibited                                   | 34 |
| 61            | Carrying out State disability work without clearance prohibited   | 34 |
| Subdivision 3 | General   |    |
| 62            | No contravention of particular requirements in absence of notice  | 35 |

|               |   |    |
|---------------|---|----|
| 63            | Complying with requirement to end, or not start, person's engagement . . . . .                      | 36 |
| Division 3    | Disability worker screening applications  |    |
| Subdivision 1 | Prohibited disability worker screening applications   |    |
| 64            | Application by exclusion holder prohibited . . . . .  | 37 |
| Subdivision 2 | Applications generally  |    |
| 65            | Application related to NDIS disability work . . . . .   | 37 |
| 66            | Application related to State disability work . . . . .  | 38 |
| 67            | Application combined with working with children check application . . . . .                         | 38 |
| 68            | Form of application . . . . .   | 39 |
| 69            | Chief executive may request further information . . . . .   | 39 |
| 70            | Applicant must give notice of change in information . . . . .                                       | 40 |
| 71            | Notice of change in police information or risk assessment matter . . . . .                          | 40 |
| 72            | Expired clearance continues in force pending decision . . . . .                                     | 41 |
| 73            | Holder of expired interstate NDIS clearance taken to hold NDIS clearance pending decision . . . . . | 41 |
| Subdivision 3 | Withdrawal of application   |    |
| 74            | Notice of withdrawal . . . . .  | 42 |
| 75            | Withdrawal by applicant . . . . .   | 42 |
| 76            | Refusal to withdraw by chief executive . . . . .  | 43 |
| 77            | Request to withdraw combined application . . . . .  | 43 |
| 78            | Withdrawal because identity can not be established . . . . .  | 44 |
| 79            | Withdrawal because of failure to comply with particular requests . . . . .                          | 44 |
| 80            | Withdrawal of NDIS worker screening application in particular circumstances . . . . .               | 45 |
| Subdivision 4 | Interim bar for particular applicants   |    |
| 81            | Application of subdivision . . . . .  | 45 |
| 82            | Chief executive must impose interim bar on applicant . . . . .                                      | 46 |
| 83            | Notifiable persons and potential employers notified about interim bar . . . . .                     | 47 |
| 84            | Effect of interim bar . . . . .   | 47 |
| 85            | When interim bar ends . . . . .   | 48 |
| Division 4    | Dealing with and deciding application   |    |
| Subdivision 1 | Preliminary   |    |
| 86            | Application of division . . . . .   | 50 |

Contents

---

|     |   |    |
|-----|---|----|
| 87  | Dealing with application . . . . .  | 50 |
| 88  | Information to be considered . . . . .  | 50 |
|     | Subdivision 2 Deciding application  |    |
| 89  | Deciding application—no relevant information . . . . .  | 51 |
| 90  | Deciding application—disqualified person . . . . .  | 51 |
| 91  | Deciding application—exceptional circumstances for adult offender . . . . .                         | 52 |
| 92  | Deciding application—general assessment of risk posed . . . . .                                     | 52 |
|     | Subdivision 3 Assessing risk person poses to people with disability                                 |    |
| 93  | How chief executive conducts risk assessment . . . . .  | 53 |
| 94  | Matters to consider . . . . .   | 54 |
| 95  | Action before making adverse decision . . . . .   | 55 |
| 96  | Requirements for show cause notice . . . . .  | 55 |
|     | Subdivision 4 Steps after application decided   |    |
| 97  | Application of subdivision . . . . .  | 56 |
| 98  | Issuing clearance and clearance card . . . . .  | 56 |
| 99  | Issuing exclusion . . . . .   | 57 |
| 100 | Notifiable persons and potential employers notified about decision . . . . .                        | 58 |
| 101 | Term of clearance . . . . .   | 58 |
| 102 | Term of exclusion . . . . .   | 59 |
|     | Division 5 General provisions about clearances  |    |
|     | Subdivision 1 Change in information   |    |
| 103 | Clearance holder to notify if no longer carrying out work as volunteer or on unpaid basis . . . . . | 59 |
| 104 | Clearance holder to notify change in other information . . . . .                                    | 61 |
|     | Subdivision 2 Replacement of clearance card   |    |
| 105 | Replacement of lost or stolen card . . . . .  | 62 |
| 106 | Replacement for change of name, contact details or volunteer or unpaid status . . . . .             | 62 |
| 107 | Requirement to return replaced card . . . . .   | 63 |
|     | Division 6 Reassessment, suspension or cancellation of clearance                                    |    |
|     | Subdivision 1 Reassessment of risk of harm to people with disability                                |    |
| 108 | Reassessment of risk of harm posed by holder of clearance . . . . .                                 | 64 |
| 109 | Application of div 4, sdiv 3 to conducting risk assessment . . . . .                                | 64 |

---

|               |  |    |
|---------------|--|----|
| Subdivision 2 | Suspension of clearance  |    |
| 110           | Application of subdivision . . . . .   | 65 |
| 111           | Chief executive must suspend clearance . . . . .                                 | 66 |
| 112           | Notifiable persons and potential employers notified about suspension . . . . .   | 66 |
| 113           | Effect of suspension of clearance . . . . .                                      | 67 |
| 114           | When suspension of clearance ends . . . . .                                      | 68 |
| 115           | Deciding whether to cancel suspended clearance . . . . .                         | 68 |
| 116           | Application to chief executive to end suspension of clearance . . . . .          | 69 |
| 117           | Chief executive decides to cancel suspended clearance . . . . .                  | 70 |
| 118           | Chief executive decides not to cancel suspended clearance . . . . .              | 71 |
| Subdivision 3 | Cancelling clearance by chief executive  |    |
| 119           | Cancelling clearance—disqualified person . . . . .                               | 72 |
| 120           | Cancelling clearance—wrong or incomplete information . . . . .                   | 72 |
| 121           | Cancelling clearance—new relevant information . . . . .                          | 72 |
| 122           | Action after decision . . . . .  | 73 |
| 123           | Notifiable persons and potential employers notified about cancellation . . . . . | 74 |
| Subdivision 4 | Cancelling clearance on holder’s request   |    |
| 124           | Request to cancel clearance . . . . .  | 75 |
| 125           | Refusal to cancel clearance . . . . .  | 75 |
| 126           | Cancellation of clearance . . . . .  | 75 |
| 127           | Notifiable persons and potential employers notified about cancellation . . . . . | 76 |
| Subdivision 5 | Return of clearance card   |    |
| 128           | Requirement to return suspended or cancelled card . . . . .                      | 77 |
| Division 7    | Cancellation of exclusion  |    |
| 129           | Application of div 4, sdiv 3 to conducting risk assessment . . . . .             | 77 |
| 130           | Application to cancel exclusion . . . . .  | 78 |
| 131           | Form of application . . . . .  | 78 |
| 132           | Cancellation on application . . . . .  | 79 |
| 133           | Other cancellation of exclusion . . . . .  | 79 |
| 134           | Action after decision to cancel exclusion . . . . .                              | 80 |
| 135           | Notice of decision to refuse application . . . . .                               | 81 |
| Division 8    | Provisions about obtaining, giving and dealing with                              |    |

---

Contents

---

|               |   |    |
|---------------|---|----|
|               | information   |    |
| Subdivision 1 | Preliminary   |    |
| 136           | Meaning of relevant person . . . . .  | 81 |
| 137           | Chief executive may disclose information about relevant persons . . . . .                     | 83 |
| 138           | Information that need not be given . . . . .  | 83 |
| Subdivision 2 | Obtaining police information and related information from police commissioner                 |    |
| 138A          | Provision about police commissioner’s obligation to provide information . . . . .             | 84 |
| 138B          | Meaning of criminal history event . . . . .   | 85 |
| 138C          | Chief executive’s request for police information about relevant person . . . . .              | 86 |
| 138D          | Chief executive’s request for domestic violence information about relevant person . . . . .   | 87 |
| 138E          | Police commissioner must notify change in police information . . . . .                        | 88 |
| 138F          | Particular information to be given about orders and applications for orders refused . . . . . | 89 |
| 138G          | Person to be notified if investigative information given                                      | 89 |
| 138H          | Use of information given to police commissioner . . .   | 90 |
| Subdivision 3 | Provisions about investigative information  |    |
| 138I          | Police commissioner may decide information is investigative information . . . . .             | 90 |
| 138J          | Appealing investigative information decision . . . . .  | 92 |
| 138K          | Court to decide matter afresh . . . . .   | 93 |
| 138L          | Consequence of decision on appeal . . . . .   | 94 |
| Subdivision 4 | Obtaining police information from other State entities  |    |
| 138M          | Obtaining information from director of public prosecutions . . . . .                          | 95 |
| 138N          | Obtaining information from chief executive (corrective services) . . . . .                    | 96 |
| Subdivision 5 | Obtaining disciplinary and other information from particular entities                         |    |
| 138O          | Meaning of disciplinary information and disciplinary action . . . . .                         | 97 |
| 138P          | Request for information about disciplinary action against relevant person . . . . .           | 99 |
| 138Q          | State entity must comply with request for disciplinary  |    |



---

|   |   |     |
|---|---|-----|
|   | information . . . . .   | 100 |
| 138R  | Request for other information about relevant person from prescribed entities . . . . .                        | 101 |
| 138S  | State entity must update disciplinary information . . . . .   | 102 |
| Subdivision 6 Obtaining information about person's mental health                                      |   |     |
| 138T  | Application of subdivision . . . . .  | 102 |
| 138U  | Request to relevant person for consent to preparation of report about person's mental health . . . . .        | 103 |
| 138V  | Obtaining report about person's mental health from registered health practitioner . . . . .                   | 105 |
| 138W  | Chief executive to bear medical costs . . . . .   | 106 |
| 138X  | Request for consent to obtain information from Mental Health Court or Mental Health Review Tribunal . . . . . | 106 |
| 138Y  | Obtaining information from Mental Health Court . . . . .  | 108 |
| 138Z  | Obtaining information from Mental Health Review Tribunal . . . . .  | 109 |
| 138ZA   | Chief executive must give information to registered health practitioner . . . . .                             | 110 |
| 138ZB   | Information that cannot be disclosed to relevant person under confidentiality order . . . . .                 | 111 |
| 138ZC   | Further restrictions on chief executive's use of information . . . . .  | 112 |
| 138ZD   | Giving information authorised despite other laws . . . . .  | 112 |
| 138ZE   | Information that must not be given . . . . .  | 113 |
| Subdivision 7 Giving information to other worker screening units and NDIS commission                  |   |     |
| 138ZF   | Application of subdivision . . . . .  | 113 |
| 138ZG   | Giving information to chief executive (working with children) . . . . .                                       | 114 |
| 138ZH   | Giving information to NDIS worker screening unit or working with children screening unit . . . . .            | 114 |
| 138ZI   | Giving information to NDIS commission . . . . .   | 116 |
| Subdivision 8 Giving information about person engaged in State disability work to particular entities |   |     |
| 138ZJ   | Authorised entities for person . . . . .  | 117 |
| 138ZK   | Chief executive may give authorised entities particular information . . . . .                                 | 118 |
| 138ZL   | Use of information obtained under section 138ZK about person . . . . .  | 118 |

---

Contents

---

|    |               |  |     |
|----|---------------|--|-----|
|    | Subdivision 9 | Other provisions   |     |
|    | 138ZM         | Chief executive may advise whether clearance or interstate NDIS clearance is in force . . . . .                | 120 |
|    | 138ZN         | Arrangements with chief executive (working with children) about asking for and giving information . . . . .    | 120 |
|    | 138ZO         | Arrangements with police commissioner or other entity about asking for and giving information . . . . .        | 121 |
|    | 138ZP         | Guidelines for dealing with information . . . . .  | 122 |
|    | 138ZQ         | Chief executive must give person's current address to police commissioner . . . . .                            | 122 |
|    | Division 9    | Review and appeal  |     |
|    | 138ZR         | Reviewable decisions and affected persons . . . . .  | 123 |
|    | 138ZS         | Review process must start with internal review . . . . .   | 124 |
|    | 138ZT         | Who may apply for internal review . . . . .  | 124 |
|    | 138ZU         | Requirements for application . . . . .   | 124 |
|    | 138ZV         | Internal review . . . . .  | 125 |
|    | 138ZW         | Applying for external review . . . . .   | 126 |
|    | 138ZX         | Stay of operation of particular tribunal decisions . . . . .   | 126 |
|    | 138ZY         | Effect of applicant for review becoming disqualified person . . . . .  | 127 |
|    | Division 10   | Miscellaneous provisions   |     |
|    | 138ZZ         | False or misleading information . . . . .  | 128 |
|    | 138ZZA        | Chief executive may arrange for use of information system . . . . .  | 128 |
|    | 138ZZB        | Notice given to notifiable person by NDIS commission   | 129 |
| 12 |               | Amendment of s 139 (Purpose of pt 6) . . . . .   | 130 |
| 13 |               | Amendment of s 140 (Application of part) . . . . .   | 130 |
| 14 |               | Replacement of s 205 (Positive notice card is evidence of holding positive notice) . . . . .                   | 131 |
|    | 205           | Clearance card is evidence of clearance . . . . .  | 131 |
| 15 |               | Amendment of s 206 (Indictable and summary offences) . . . . .   | 131 |
| 16 |               | Amendment of s 207 (Proceedings for indictable offences) . . . . .   | 131 |
| 17 |               | Amendment of s 216 (Application of division) . . . . .   | 132 |
| 18 |               | Amendment of s 222 (Establishment of Ministerial advisory committees) . . . . .                                | 132 |
| 19 |               | Replacement of s 227 (Confidentiality of information about criminal history and related information) . . . . . | 133 |
|    | 227           | Confidentiality of police, disciplinary, mental health and other   |     |

|     |  |     |
|-----|--|-----|
|     | protected information . . . . .  | 133 |
| 20  | Amendment of s 228 (Confidentiality of other information) . . . . .  | 134 |
| 21  | Amendment of s 229 (Power to require information or documents) . . . . .   | 135 |
| 22  | Omission of s 232 (Chief executive may enter into arrangement about giving and receiving information with police commissioner) . . . . . | 135 |
| 23  | Amendment of s 239 (Regulation-making power) . . . . .   | 135 |
| 24  | Insertion of new pt 9, div 13 . . . . .  | 136 |
|     | Division 13 Transitional provisions for Disability Services and Other Legislation (Worker Screening) Amendment Act 2020                  |     |
|     | Subdivision 1 Preliminary  |     |
| 367 | Definitions for division . . . . .   | 136 |
| 368 | Particular terms having meaning given under unamended Act . . . . .  | 137 |
|     | Subdivision 2 Existing prescribed notices, exemption notices, prescribed notice applications and exemption notice applications           |     |
| 369 | Existing positive notice and positive notice card . . . . .  | 137 |
| 370 | Existing suspension of positive notice or positive exemption notice . . . . .  | 138 |
| 371 | Existing current negative notice or current negative exemption notice . . . . .  | 139 |
| 372 | Existing prescribed notice application or exemption notice application . . . . .   | 140 |
| 373 | Existing consent to screening by person engaged by department . . . . .  | 141 |
| 374 | Dealing with and deciding transitioned applications . . . . .  | 142 |
| 375 | Application of new pt 5 to transitioned applicants . . . . .   | 142 |
|     | Subdivision 3 Application of new part 5 for particular persons   |     |
| 376 | Working with children authority holders . . . . .  | 144 |
| 377 | Registered health practitioners . . . . .  | 145 |
|     | Subdivision 4 New disqualifying offences and new serious offences  |     |
| 378 | Effect of conviction or charge for new disqualifying offence or new serious offence . . . . .  | 147 |
| 379 | Existing application to cancel negative notice or negative exemption notice . . . . .  | 148 |
|     | Subdivision 5 Reassessment of holders of transitioned clearances   |     |
| 380 | Reassessment of holder of transitioned clearance . . . . .   | 148 |
|     | Subdivision 6 Reviews and appeals  |     |

Contents

---

|    |               |   |     |
|----|---------------|---|-----|
|    | 381           | Definitions for subdivision . . . . .   | 149 |
|    | 382           | Undecided reviews or appeals . . . . .  | 150 |
|    | 383           | Reviews not started on commencement . . . . .   | 150 |
|    | 384           | Appeals not started on commencement . . . . .   | 151 |
|    | 385           | Chief executive must make new decision about affected person . . . . .  | 152 |
|    | 386           | Undecided appeals about investigative information decisions . . . . .   | 154 |
|    | 387           | Appeals about investigative information decisions not started on commencement . . . . .                                     | 155 |
|    |               | Subdivision 7 Other transitional provisions   |     |
|    | 388           | Things done before commencement in relation to prescribed notice or exemption notice . . . . .                              | 156 |
|    | 389           | Obligations or powers arising before commencement in relation to prescribed notice or exemption notice . . . . .            | 158 |
|    | 390           | Particular references in Act or document . . . . .  | 159 |
|    | 391           | Eligibility applications and eligibility declarations lapse . . . . .   | 159 |
|    | 392           | Continuing obligation of confidentiality . . . . .  | 160 |
|    | 393           | Transitional regulation-making power . . . . .  | 160 |
| 25 |               | Replacement of sch 2 (Current serious offences) . . . . .   | 161 |
|    |               | Schedule 2 Current serious offences . . . . .   | 161 |
| 26 |               | Amendment of sch 3 (Repealed or expired serious offences) . . . . .   | 165 |
| 27 |               | Replacement of sch 4 (Current disqualifying offences) . . . . .   | 166 |
|    |               | Schedule 4 Current disqualifying offences . . . . .   | 166 |
| 28 |               | Amendment of sch 5 (Repealed or expired disqualifying offences) . . . . .   | 172 |
| 29 |               | Amendment of sch 8 (Dictionary) . . . . .   | 173 |
|    | <b>Part 3</b> | <b>Amendment of Working with Children (Risk Management and Screening) Act 2000</b>  |     |
|    | 30            | Act amended . . . . .   | 185 |
|    | 31            | Amendment of s 175 (Clearance required to employ person in regulated employment) . . . . .                                  | 185 |
|    | 32            | Amendment of s 176A (Person prohibited from regulated employment without clearance) . . . . .                               | 186 |
|    | 33            | Amendment of s 176C (Exemption required to employ police officer or registered teacher in regulated employment) . . . . .   | 186 |
|    | 34            | Amendment of s 176E (Police officer or registered teacher prohibited from regulated employment without exemption) . . . . . | 187 |
|    | 35            | Amendment of s 176H (Definitions for division) . . . . .  | 187 |
|    | 36            | Insertion of new s 187A . . . . .   | 187 |

|    |      |  |     |
|----|------|--|-----|
|    | 187A | Application combined with disability worker screening application . . . . .  | 188 |
| 37 |      | Insertion of new s 190A . . . . .  | 188 |
|    | 190A | Chief executive may request further information for combined application . . . . .   | 188 |
| 38 |      | Insertion of new s 193A . . . . .  | 189 |
|    | 193A | Effect of interim bar imposed by chief executive (disability services) . . . . .   | 189 |
| 39 |      | Insertion of new s 196A . . . . .  | 189 |
|    | 196A | Withdrawal of combined application . . . . .   | 190 |
| 40 |      | Amendment of s 198 (Deemed withdrawal—failure to comply with particular requests) . . . . .  | 190 |
| 41 |      | Amendment of s 221 (Deciding application—no conviction or conviction etc. for non-serious offence) . . . . .                             | 190 |
| 42 |      | Amendment of s 223 (Deciding application—negative notice cancelled or holder of eligibility declaration) . . . . .                       | 191 |
| 43 |      | Amendment of s 226 (Deciding exceptional case if conviction or charge) . . . . .   | 192 |
| 44 |      | Amendment of s 228 (Deciding exceptional case if disciplinary information exists) . . . . .  | 192 |
| 45 |      | Amendment of s 229 (Chief executive to invite submissions from person about particular information) . . . . .                            | 193 |
| 46 |      | Replacement of s 231 (Term of clearance and negative notice) . . . . .   | 193 |
|    | 231  | Term of clearance . . . . .  | 194 |
|    | 231A | Term of negative notice . . . . .  | 194 |
| 47 |      | Amendment of s 283 (Deciding application—police officer if further screening not required) . . . . .                                     | 194 |
| 48 |      | Amendment of s 284 (Deciding application—registered teacher if further screening not required) . . . . .                                 | 195 |
| 49 |      | Replacement of s 289 (Term of exemption and negative notice) . . . . .   | 195 |
|    | 289  | Term of exemption . . . . .  | 195 |
|    | 289A | Term of negative notice . . . . .  | 196 |
| 50 |      | Amendment of s 304A (Cancelling authority because of subsequent information) . . . . .   | 196 |
| 51 |      | Replacement of s 344 (Chief executive must give information about particular holders to chief executive (disability services)) . . . . . | 197 |
|    | 344  | Giving information to chief executive (disability services) . . . . .  | 197 |
| 52 |      | Insertion of new s 344C . . . . .  | 198 |
|    | 344C | Notifying self-managed NDIS participant about particular   |     |

Contents

---

|    |  |     |
|----|--|-----|
|    | matters . . . . .  | 198 |
| 53 | Omission of s 345 (Use of information obtained under this chapter about a person) . . . . .  | 200 |
| 54 | Amendment of s 350 (Holder must notify change and pay prescribed application fee—volunteer or business carried on other than for financial reward) . . . . . | 200 |
| 55 | Amendment of s 384 (Confidentiality of police, disciplinary and mental health information) . . . . .   | 200 |
| 56 | Replacement of s 385 (Confidentiality of other information) . . . . .  | 202 |
|    | 385        Confidentiality of other information . . . . .  | 202 |
| 57 | Amendment of s 395 (Reports by chief executive) . . . . .  | 203 |
| 58 | Amendment of s 401 (Regulation-making power) . . . . .   | 203 |
| 59 | Replacement of ch 11, pt 20 (Transitional provision for Disability Services and Other Legislation (NDIS) Amendment Act 2019) . . . . .                       | 204 |
|    | Part 20        Transitional provisions for Disability Services and Other Legislation (Worker Screening) Amendment Act 2020                                   |     |
|    | 590        New regulated employment . . . . .  | 204 |
|    | 591        New regulated business . . . . .  | 205 |
|    | 592        Information that may be given under section 344 . . . . .   | 205 |
|    | 593        Continuing obligation of confidentiality . . . . .  | 206 |
| 60 | Amendment of sch 1, s 6 (Health, counselling and support services) . . . . .   | 206 |
| 61 | Insertion of new sch 1, s 6A . . . . .   | 207 |
|    | 6A        Disability work . . . . .  | 207 |
| 62 | Amendment of sch 1, s 16 (Health, counselling and support services) . . . . .  | 208 |
| 63 | Insertion of new sch 1, s 16A . . . . .  | 208 |
|    | 16A        Disability work . . . . .   | 208 |
| 64 | Amendment of sch 7 (Dictionary) . . . . .  | 209 |
|    | <b>Part 4        Amendment of other legislation</b>  |     |
|    | <b>Division 1        Amendment of Evidence Act 1977</b>  |     |
| 65 | Act amended . . . . .  | 211 |
| 66 | Amendment of s 93AA (Unauthorised possession of, or dealing in, s 93A criminal statements) . . . . .   | 211 |
|    | <b>Division 2        Amendment of Police Powers and Responsibilities Act 2000</b>  |     |
| 67 | Act amended . . . . .  | 213 |
| 68 | Replacement of ch 23, pt 1A, hdg (Provision for Working with Children (Risk Management and Screening) Act 2000) . . . . .                                    | 214 |

---

|                   |   |     |
|-------------------|---|-----|
| 69                | Insertion of new s 789B . . . . .   | 214 |
|                   | 789B Power to demand production of disability worker clearance card . . . . . | 214 |
| <b>Part 5</b>     | <b>Minor and consequential amendments</b>                                     |     |
| 70                | Acts amended . . . . .  | 215 |
| <b>Schedule 1</b> | <b>Minor and consequential amendments</b> . . . . .                           | 216 |
|                   | Disability Services Act 2006 . . . . .  | 216 |
|                   | Guardianship and Administration Act 2000 . . . . .                            | 219 |
|                   | Working with Children (Risk Management and Screening) Act 2000                | 220 |





**2020**

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## **A Bill**

for

**An Act to amend the *Disability Services Act 2006*, the *Evidence Act 1977*, the *Police Powers and Responsibilities Act 2000*, the *Working with Children (Risk Management and Screening) Act 2000* and the other legislation mentioned in schedule 1 for particular purposes**

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[s 1]

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**The Parliament of Queensland enacts—** 1

**Part 1 Preliminary** 2

**Clause 1 Short title** 3

This Act may be cited as the *Disability Services and Other  
Legislation (Worker Screening) Amendment Act 2020*. 4  
5

**Clause 2 Commencement** 6

This Act commences on a day to be fixed by proclamation. 7

**Part 2 Amendment of Disability  
Services Act 2006** 8  
9

**Clause 3 Act amended** 10

This part amends the *Disability Services Act 2006*. 11

*Note—* 12

See also the amendments in schedule 1. 13

**Clause 4 Amendment of s 6 (Objects of Act)** 14

(1) Section 6(1)(c), ‘disability services’— 15

*omit, insert—* 16

NDIS supports or services 17

(2) Section 6(2), definition *national disability insurance  
scheme—* 18  
19

*relocate* to schedule 8. 20

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|                 |   |  |
|-----------------|---|--|
| <b>Clause 5</b> | <b>Amendment of s 7 (How objects are mainly achieved)</b>   | 1                                      |
|                 | Section 7(d)—   | 2                                      |
|                 | <i>omit, insert—</i>  | 3                                      |
|                 | (d) regulating particular aspects of the provision of NDIS supports or services by particular NDIS service providers under the <i>National Disability Insurance Scheme Act 2013</i> (Cwlth) to ensure the quality and safety of the supports or services; and   | 4<br>5<br>6<br>7<br>8<br>9             |
| <b>Clause 6</b> | <b>Amendment of s 12 (What are <i>disability services</i>)</b>  | 10                                     |
|                 | Section 12—   | 11                                     |
|                 | <i>insert—</i>  | 12                                     |
|                 | (2) However, <i>disability services</i> do not include NDIS supports or services.   | 13<br>14                               |
| <b>Clause 7</b> | <b>Insertion of new s 12A</b>   | 15                                     |
|                 | After section 12—   | 16                                     |
|                 | <i>insert—</i>  | 17                                     |
|                 | <b>12A What are <i>NDIS supports or services</i></b>  | 18                                     |
|                 | <i>NDIS supports or services</i> are supports or services provided to a person with disability under the national disability insurance scheme, to the extent that providing the supports or services is funded by the payment of an NDIS amount under the <i>National Disability Insurance Scheme Act 2013</i> (Cwlth). | 19<br>20<br>21<br>22<br>23<br>24<br>25 |
| <b>Clause 8</b> | <b>Amendment of s 13 (Meaning of <i>service provider</i>)</b>   | 26                                     |
|                 | Section 13, before ‘services’—  | 27                                     |
|                 | <i>insert—</i>  | 28                                     |
|                 | supports or   | 29                                     |

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[s 9]

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|                 |   |                       |
|-----------------|---|-----------------------|
| <b>Clause 9</b> | <b>Replacement of ss 15–16A</b>   | 1                     |
|                 | Sections 15 to 16A—   | 2                     |
|                 | <i>omit, insert—</i>  | 3                     |
|                 | <b>14 Meaning of <i>funded service provider</i></b>   | 4                     |
|                 | (1) A <i>funded service provider</i> is a service provider, other than the State, receiving recurrent or one-off funds from the department, or another department prescribed by regulation, to provide disability services. | 5<br>6<br>7<br>8<br>9 |
|                 | (2) It does not matter whether or not the service provider also uses other funds or resources to provide the disability services.   | 10<br>11<br>12        |
|                 | (3) A funded service provider may be a local government.  | 13<br>14              |
|                 | <b>15 Meaning of <i>NDIS service provider</i></b>   | 15                    |
|                 | (1) A registered NDIS provider and an unregistered NDIS provider are each an <i>NDIS service provider</i> .   | 16<br>17<br>18        |
|                 | (2) A <i>registered NDIS provider</i> is a registered NDIS provider under the <i>National Disability Insurance Scheme Act 2013</i> (Cwlth).   | 19<br>20<br>21        |
|                 | (3) An <i>unregistered NDIS provider</i> is an entity that delivers NDIS supports or services to people with disability, other than a registered NDIS provider.   | 22<br>23<br>24        |
|                 | <b>16 Meaning of <i>NDIS sole trader</i> and <i>State sole trader</i></b>   | 25<br>26              |
|                 | (1) An individual is an <i>NDIS sole trader</i> if the individual—  | 27<br>28              |
|                 | (a) is an NDIS service provider; and  | 29                    |

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|                  |  |   |                |
|------------------|--|---|----------------|
|                  | (b) as an NDIS service provider, personally provides NDIS supports or services to people with disability.          | 1<br>2<br>3   |                |
|                  | (2) An individual is a <i>State sole trader</i> if the individual—   | 4<br>5  |                |
|                  | (a) is a funded service provider; and  | 6   |                |
|                  | (b) as a funded service provider, personally provides disability services to people with disability.               | 7<br>8<br>9   |                |
| <b>Clause 10</b> | <b>Amendment of s 18 (Principle that people with a disability have the same human rights as others)</b>            | 10<br>11  |                |
|                  | (1) Section 18(3), after ‘disability services’—<br><i>insert</i> —<br>or NDIS supports or services,                | 12<br>13<br>14  |                |
|                  | (2) Section 18(3)(a) to (f) and (4), before ‘services’—<br><i>insert</i> —<br>supports or                          | 15<br>16<br>17  |                |
| <b>Clause 11</b> | <b>Replacement of pt 5 (Screening of particular persons engaged by department or particular service providers)</b> | 18<br>19  |                |
|                  | Part 5—<br><i>omit, insert</i> —   | 20<br>21  |                |
|                  | <b>Part 5</b>  | <b>Disability worker screening and related requirements</b> | 22<br>23<br>24 |
|                  | <b>Division 1</b>  | <b>Preliminary</b>  | 25             |
|                  | <b>Subdivision 1</b>   | <b>General</b>  | 26             |

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[s 11]

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|  |                            |
|--|----------------------------|
| <b>40 Main purposes of part</b>  | 1                          |
| This part—   | 2                          |
| (a) establishes a scheme for screening persons, by obtaining and considering their criminal history and other relevant information, to assess whether the persons pose an unacceptable risk of harm to people with disability; and | 3<br>4<br>5<br>6<br>7<br>8 |
| (b) requires persons who carry out, or propose to carry out, particular work with people with disability to be screened under the scheme before they start carrying out the work; and  | 9<br>10<br>11<br>12<br>13  |
| (c) prohibits persons from carrying out particular work with people with disability if the chief executive decides they pose an unacceptable risk of harm to the people with disability.   | 14<br>15<br>16<br>17<br>18 |
| <br>   |                            |
| <b>41 Paramount consideration</b>  | 19                         |
| The paramount consideration in making a decision under this part is the right of people with disability to live lives free from abuse, violence, neglect or exploitation, including financial abuse or exploitation.               | 20<br>21<br>22<br>23<br>24 |
| <br>   |                            |
| <b>42 Part applies despite Criminal Law (Rehabilitation of Offenders) Act 1986</b>   | 25<br>26                   |
| This part applies to a person despite the <i>Criminal Law (Rehabilitation of Offenders) Act 1986</i> .   | 27<br>28                   |
| <br>   |                            |
| <b>43 Exemption for secondary school student on work experience</b>  | 29<br>30                   |
| (1) This section applies if—   | 31                         |

- 
- (a) a secondary school student on work experience carries out disability work for a service provider (the *work experience provider*); and
- (b) another provision of this part requires a person who is engaged to carry out the disability work to hold a clearance or interstate NDIS clearance.
- (2) Despite the other provision, the student is not required to hold the clearance or interstate NDIS clearance to carry out the disability work.
- (3) The work experience provider does not commit an offence against the other provision in relation to the student carrying out the disability work if the student carries out the work under the direct supervision of—
- (a) for NDIS disability work—a person who holds an NDIS clearance or interstate NDIS clearance; or
- (b) for State disability work—a person who holds a clearance.

## **Subdivision 2 Interpretation**

### **44 When a person is *engaged* to carry out work for entity**

- (1) A person is *engaged* to carry out work for an entity if—
- (a) the person has an agreement with the entity to carry out the work as an employee or volunteer of the entity; or
- (b) the person carries out the work under a contract for services between—
- (i) the entity and the person; or

[s 11]

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- |   |                      |
|---|----------------------|
| (ii) the entity and another person.   | 1                    |
| (2) For this section, it does not matter—   | 2                    |
| (a) whether the agreement or contract is written or unwritten; or   | 3<br>4               |
| (b) whether the work is carried out voluntarily or for financial reward; or   | 5<br>6               |
| (c) how long the person is engaged to carry out the work; or  | 7<br>8               |
| (d) whether the agreement or contract provides for the person to carry out work on 1 occasion or an ongoing basis, whether regularly or irregularly.                    | 9<br>10<br>11<br>12  |
| (3) Also, for this section, the nature of the work does not matter.   | 13<br>14             |
| <i>Note—</i>  | 15                   |
| See also sections 46, 48 and 49.  | 16                   |
| <br>  |                      |
| <b>45 Meaning of <i>NDIS disability work</i> and <i>risk-assessed NDIS work</i></b>   | 17<br>18             |
| (1) <i>NDIS disability work</i> is work that includes the delivery of NDIS supports or services to a person with disability.  | 19<br>20<br>21       |
| (2) <i>Risk-assessed NDIS work</i> is NDIS disability work carried out in a role for which the normal duties—   | 22<br>23<br>24       |
| (a) include the direct delivery of specified NDIS supports or services to a person with disability; or  | 25<br>26<br>27       |
| (b) are likely to require more than incidental contact with a person with disability.   | 28<br>29             |
| (3) For subsection (2)(b), the normal duties of a person's role are likely to require more than incidental contact with a person with disability if the duties include— | 30<br>31<br>32<br>33 |



- 
- (a) physically touching a person with disability; 1  
or 2
- (b) building a rapport with a person with 3  
disability as an integral and ordinary part of 4  
the performance of the duties; or 5
- (c) duties that, under the NDIS (Worker 6  
Screening) Practice Standards, are defined 7  
to be, or otherwise described as, duties that 8  
require more than incidental contact with a 9  
person with disability. 10
- (4) In this section— 11  
*contact* includes— 12
- (a) physical contact; and 13
- (b) face-to-face contact; and 14
- (c) oral, written and electronic communication. 15
- rapport* means a relationship or understanding 16  
that is more than merely polite and functional. 17
- specified NDIS supports or services* means NDIS 18  
supports or services that, under the NDIS (Worker 19  
Screening) Practice Standards, are— 20
- (a) specified supports or specified services; or 21
- (b) identified as supports or services that, if 22  
delivered directly to a person with disability, 23  
must be delivered by a person who holds an 24  
NDIS clearance or interstate NDIS 25  
clearance. 26
- 46 Key personnel of NDIS service provider taken 27  
to be engaged in risk-assessed NDIS work 28**
- (1) A person is taken to be engaged to carry out 29  
risk-assessed NDIS work for an NDIS service 30  
provider if the person is key personnel of the 31  
service provider. 32

[s 11]

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|   |                    |
|---|--------------------|
| (2) In this section—  | 1                  |
| <i>key personnel</i> see the <i>National Disability Insurance Scheme Act 2013</i> (Cwlth), section 11A.   | 2<br>3             |
| <b>47 Meaning of <i>State disability work</i></b>   | 4                  |
| (1) <i>State disability work</i> is work that includes providing disability services that is carried out for the department or a funded service provider.       | 5<br>6<br>7        |
| (2) <i>State disability work</i> does not include work carried out at a place where a funded service provider provides disability services that is carried out— | 8<br>9<br>10<br>11 |
| (a) by a consumer of the service provider; or   | 12                 |
| (b) by a tradesperson who—  | 13                 |
| (i) performs work at the place from time to time; and   | 14<br>15           |
| (ii) is not an employee of the service provider; or   | 16<br>17           |
| (c) by a volunteer who—   | 18                 |
| (i) is a relative of a person who receives disability services at the place; and  | 19<br>20           |
| (ii) is at the place only to help with the care of the person.  | 21<br>22           |
| <b>48 When person is <i>engaged</i> to carry out <i>State disability work</i></b>   | 23<br>24           |
| (1) A person is <i>engaged</i> to carry out <i>State disability work</i> for the department if the person—  | 25<br>26           |
| (a) is engaged to carry out the work at a place at which the department provides disability services; or  | 27<br>28<br>29     |

- 
- (b) is a public service employee employed at a place mentioned in paragraph (a); or
- (c) is a member of a committee established under section 222(a).
- (2) A person is *engaged* to carry out State disability work for a funded service provider if the person is engaged to carry out the work at a place at which the service provider provides disability services.
- (3) A person is not *engaged* to carry out State disability work for the department or a funded service provider if the person is engaged to carry out the work, and carries out the work, for not more than 7 days in a calendar year.
- (4) This section does not limit section 44.
- 49 Particular members or officers taken to be engaged in State disability work for funded service provider**
- A person is taken to be engaged to carry out State disability work for a funded service provider if—
- (a) the person is a member of a board, management committee or other governing body of the service provider; or
- (b) if the service provider is a corporation—the person is an executive officer of the service provider.
- 50 Meaning of *clearance* and types of clearances**
- (1) A *clearance* is a declaration, issued by the chief executive to a person, that—
- (a) screening of the person has been conducted under this part; and
- (b) the person is permitted to carry out disability work.

[s 11]

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- (2) An *NDIS clearance* is a clearance issued to a person who made an NDIS worker screening application. 1  
2  
3
- (3) An *interstate NDIS clearance* is a declaration, however called, issued under a corresponding law that corresponds to an NDIS clearance. 4  
5  
6
- (4) A *State clearance* is a clearance issued to a person who made a State disability worker screening application. 7  
8  
9
- 51 Meaning of *exclusion* and types of exclusions** 10
- (1) An *exclusion* is a declaration, issued by the chief executive to a person, that— 11  
12
- (a) screening of the person has been conducted under this part; and 13  
14
- (b) the person is excluded from carrying out disability work. 15  
16
- (2) An *NDIS exclusion* is an exclusion issued to a person who made an NDIS worker screening application. 17  
18  
19
- (3) An *interstate NDIS exclusion* is a declaration, however called, issued under a corresponding law that corresponds to an NDIS exclusion. 20  
21  
22
- (4) A *State exclusion* is an exclusion issued to a person who made a State disability worker screening application. 23  
24  
25
- 52 Meaning of *notifiable person*** 26
- (1) Each of the following is a *notifiable person* for a person— 27  
28
- (a) if the chief executive is aware that an NDIS service provider engages, or proposes to engage, the person to carry out NDIS disability work—the NDIS service provider; 29  
30  
31  
32

- 
- (b) if the chief executive is aware that a funded service provider engages, or proposes to engage, the person to carry out State disability work—the funded service provider; 1  
2  
3  
4  
5
- (c) another entity prescribed by regulation to be a notifiable person for the person. 6  
7
- (2) Subsection (3) applies for a person if— 8
- (a) the person delivers NDIS supports or services to an NDIS participant as— 9  
10
- (i) an NDIS sole trader; or 11
- (ii) a person engaged by an NDIS service provider to deliver the supports or services; and 12  
13  
14
- (b) the Agency is not wholly managing the funding for supports under the NDIS participant’s plan; and 15  
16  
17
- (c) the chief executive is notified, or otherwise becomes aware, that the person is delivering the NDIS supports or services to the NDIS participant. 18  
19  
20  
21
- (3) Each of the following is also a *notifiable person* for the person— 22  
23
- (a) the NDIS participant; 24
- (b) another person recognised by the chief executive as a person with the authority or responsibility to act for the NDIS participant in relation to the participant’s plan, other than the Agency. 25  
26  
27  
28  
29
- (4) In this section— 30
- Agency* see the *National Disability Insurance Scheme Act 2013* (Cwlth), section 9. 31  
32
- managing the funding for supports*, under an NDIS participant’s plan, see the *National* 33  
34

[s 11]

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|   |                      |
|---|----------------------|
| <i>Disability Insurance Scheme Act 2013</i> (Cwlth),<br>section 42.   | 1<br>2               |
| <i>NDIS participant</i> means a person who is a<br>participant in the national disability insurance<br>scheme under the <i>National Disability Insurance<br/>Scheme Act 2013</i> (Cwlth).             | 3<br>4<br>5<br>6     |
| <i>plan</i> , for an NDIS participant, means the NDIS<br>participant's plan under the national disability<br>insurance scheme.  | 7<br>8<br>9          |
| <b>Division 2</b>   |                      |
| <b>Requirements related to<br/>persons carrying out<br/>disability work</b>   | 10<br>11<br>12       |
| <b>Subdivision 1</b>  |                      |
| <b>NDIS disability work</b>   | 13                   |
| <b>53 Registered NDIS provider engaging person to<br/>carry out risk-assessed NDIS work</b>   | 14<br>15             |
| (1) A registered NDIS provider must not engage, or<br>continue to engage, a person to carry out<br>risk-assessed NDIS work unless the person holds<br>an NDIS clearance or interstate NDIS clearance. | 16<br>17<br>18<br>19 |
| Maximum penalty—  | 20                   |
| (a) if an aggravating circumstance applies to the<br>offence—200 penalty units or 2 years<br>imprisonment; or   | 21<br>22<br>23       |
| (b) otherwise—100 penalty units.  | 24                   |
| (2) It is an <i>aggravating circumstance</i> for an offence<br>against subsection (1) if the registered NDIS<br>provider has been given notice that—  | 25<br>26<br>27       |
| (a) the person's NDIS clearance was cancelled<br>on the person's request under division 6; or   | 28<br>29             |

- 
- (b) the person's interstate NDIS clearance was cancelled on the person's request under a corresponding law. 1  
2  
3
- (3) A registered NDIS provider does not commit an offence against subsection (1) if— 4  
5
- (a) the person (a *subcontractor*) is engaged to carry out the risk-assessed NDIS work under a contract for services between the provider and another person; and 6  
7  
8  
9
- (b) the provider has complied with the NDIS (Worker Screening) Practice Standards in relation to the subcontractor being engaged to carry out the risk-assessed NDIS work for the provider. 10  
11  
12  
13  
14
- 54 Carrying out risk-assessed NDIS work without NDIS clearance or interstate NDIS clearance prohibited** 15  
16  
17
- (1) A person must not start, or continue, an engagement to carry out risk-assessed NDIS work for a registered NDIS provider unless the person holds an NDIS clearance or interstate NDIS clearance. 18  
19  
20  
21  
22
- Maximum penalty— 23
- (a) if an aggravating circumstance applies to the offence—500 penalty units or 5 years imprisonment; or 24  
25  
26
- (b) otherwise—100 penalty units. 27
- (2) A person who is a registered NDIS provider must not carry out risk-assessed NDIS work as an NDIS sole trader unless the person holds an NDIS clearance or interstate NDIS clearance. 28  
29  
30  
31
- Maximum penalty—500 penalty units or 5 years imprisonment. 32  
33
- (3) It is an *aggravating circumstance* for an offence 34

[s 11]

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|   |                      |
|---|----------------------|
| against subsection (1) if the person—   | 1                    |
| (a) held an NDIS clearance that was cancelled on the person’s request under division 6; or                                    | 2<br>3               |
| (b) held an interstate NDIS clearance that was cancelled on the person’s request under a corresponding law; or                | 4<br>5<br>6          |
| (c) is a disqualified person; or  | 7                    |
| (d) holds a negative notice under the Working with Children Act; or   | 8<br>9               |
| (e) is subject to—  | 10                   |
| (i) offender reporting obligations; or  | 11                   |
| (ii) an offender prohibition order; or  | 12                   |
| (iii) an offender prohibition disqualification order; or  | 13<br>14             |
| (iv) a sexual offender order; or  | 15                   |
| (f) is the respondent to an application for an offender prohibition order.  | 16<br>17             |
| <br>  |                      |
| <b>55 Engaging person with NDIS exclusion or interstate NDIS exclusion prohibited</b>   | 18<br>19             |
| An NDIS service provider must not engage, or continue to engage, a person to carry out NDIS disability work if—               | 20<br>21<br>22       |
| (a) the person holds an NDIS exclusion or an interstate NDIS exclusion; and   | 23<br>24             |
| (b) the service provider knows, or ought reasonably to know, the person holds an NDIS exclusion or interstate NDIS exclusion. | 25<br>26<br>27<br>28 |
| Maximum penalty—200 penalty units or 2 years imprisonment.  | 29<br>30             |



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|           |   |    |
|-----------|---|----|
| <b>56</b> | <b>Engaging person with suspended NDIS clearance or interstate NDIS clearance, or subject to interim bar, prohibited</b>  | 1  |
|           |   | 2  |
|           |   | 3  |
| (1)       | This section applies if—  | 4  |
| (a)       | a person—   | 5  |
| (i)       | holds an NDIS clearance that is suspended under division 6; or  | 6  |
|           |   | 7  |
| (ii)      | holds an interstate NDIS clearance that is suspended under a corresponding law; or  | 8  |
|           |   | 9  |
|           |   | 10 |
| (iii)     | is subject to an interim bar; and   | 11 |
| (b)       | an NDIS service provider knows, or ought reasonably to know, the person's NDIS clearance or interstate NDIS clearance is suspended or the interim bar is in effect for the person.                            | 12 |
|           |   | 13 |
|           |   | 14 |
|           |   | 15 |
|           |   | 16 |
| (2)       | The NDIS service provider must not—   | 17 |
| (a)       | if the person is engaged by the service provider under an existing arrangement to carry out NDIS disability work for the service provider—allow the person to carry out work that is NDIS disability work; or | 18 |
|           |   | 19 |
|           |   | 20 |
|           |   | 21 |
|           |   | 22 |
| (b)       | otherwise—start to engage the person to carry out NDIS disability work.   | 23 |
|           |   | 24 |
|           | Maximum penalty—200 penalty units or 2 years imprisonment.  | 25 |
|           |   | 26 |
|           | <i>Note—</i>  | 27 |
|           | See sections 84(3) and 113(3) for the restrictions on terminating a person's employment solely or mainly because the person's clearance is suspended or an interim bar is in effect for the person.           | 28 |
|           |   | 29 |
|           |   | 30 |
|           |   | 31 |

[s 11]

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|-----------|--|----------------------------|
| <b>57</b> | <b>Holder of NDIS exclusion or interstate NDIS exclusion prohibited from carrying out NDIS disability work</b>   | 1<br>2<br>3                |
|           | A person who holds an NDIS exclusion or an interstate NDIS exclusion must not—   | 4<br>5                     |
|           | (a) start, or continue, an engagement to carry out NDIS disability work for an NDIS service provider; or   | 6<br>7<br>8                |
|           | (b) carry out NDIS disability work as an NDIS sole trader.   | 9<br>10                    |
|           | Maximum penalty—500 penalty units or 5 years imprisonment.   | 11<br>12                   |
|           | <b>Subdivision 2 State disability work</b>   | 13                         |
| <b>58</b> | <b>Funded service provider must prepare annual risk management strategy</b>  | 14<br>15                   |
|           | (1) Each year, a funded service provider that engages 1 or more persons to carry out State disability work must develop and implement a written strategy (a <i>risk management strategy</i> ) that complies with this section. | 16<br>17<br>18<br>19<br>20 |
|           | Maximum penalty—20 penalty units.  | 21                         |
|           | (2) A risk management strategy must include practices and procedures for engaging persons who carry out State disability work for the funded service provider in ways that—  | 22<br>23<br>24<br>25       |
|           | (a) promote the wellbeing of people with disability; and   | 26<br>27                   |
|           | (b) protect people with disability from abuse, violence, neglect or exploitation.  | 28<br>29                   |
|           | (3) A regulation may prescribe other matters that must be included in a risk management strategy.  | 30<br>31                   |

- 
- 59 Funded service provider engaging person to carry out State disability work** 1  
2
- (1) A funded service provider must not engage, or 3  
continue to engage, a person to carry out State 4  
disability work unless— 5
- (a) the person holds a clearance; and 6
- (b) the service provider has given the chief 7  
executive a notice, under subsections (3) and 8  
(4), about engaging the person to carry out 9  
State disability work. 10
- Maximum penalty— 11
- (a) if an aggravating circumstance applies to the 12  
offence—200 penalty units or 2 years 13  
imprisonment; or 14
- (b) otherwise—100 penalty units. 15
- (2) It is an *aggravating circumstance* for an offence 16  
against subsection (1) if— 17
- (a) the person holds an exclusion and the 18  
funded service provider knows, or ought 19  
reasonably to know, the person holds the 20  
exclusion; or 21
- (b) the funded service provider is given notice 22  
that the person’s clearance was cancelled on 23  
the person’s request under division 6. 24
- (3) Before giving a notice mentioned in subsection 25  
(1)(b), the funded service provider must take 26  
reasonable steps to verify the person’s identity. 27
- Examples of reasonable steps—* 28
- viewing the person’s clearance or driver licence that 29  
includes the person’s photograph 30
- (4) A notice mentioned in subsection (1)(b) must be 31  
given in the approved form and in an approved 32  
way. 33

[s 11]

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|           |   |                            |
|-----------|---|----------------------------|
| <b>60</b> | <b>Engaging person with suspended clearance, or subject to interim bar, prohibited</b>  | 1<br>2                     |
| (1)       | This section applies if—  | 3                          |
| (a)       | a person—   | 4                          |
| (i)       | holds a clearance that is suspended; or   | 5                          |
| (ii)      | is subject to an interim bar; and   | 6                          |
| (b)       | a funded service provider knows, or ought reasonably to know, the person’s clearance is suspended or the interim bar is in effect for the person.   | 7<br>8<br>9<br>10          |
| (2)       | The funded service provider must not—   | 11                         |
| (a)       | if the person is engaged by the service provider under an existing arrangement to carry out State disability work for the service provider—allow the person to carry out work that is State disability work; or | 12<br>13<br>14<br>15<br>16 |
| (b)       | otherwise—start to engage the person to carry out State disability work.  | 17<br>18                   |
|           | Maximum penalty—200 penalty units or 2 years imprisonment.  | 19<br>20                   |
|           | <i>Note—</i>  | 21                         |
|           | See sections 84(3) and 113(3) for the restrictions on terminating a person’s employment solely or mainly because the person’s clearance is suspended or an interim bar is in effect for the person.             | 22<br>23<br>24<br>25       |
| <b>61</b> | <b>Carrying out State disability work without clearance prohibited</b>  | 26<br>27                   |
| (1)       | A person must not start, or continue, an engagement to carry out State disability work for the department or a funded service provider unless the person holds a clearance.                                     | 28<br>29<br>30<br>31       |
|           | Maximum penalty—  | 32                         |

- 
- (a) if an aggravating circumstance applies to the offence—500 penalty units or 5 years imprisonment; or 1  
2  
3
- (b) otherwise—100 penalty units. 4
- (2) A person must not carry out State disability work as a State sole trader unless the person holds a clearance. 5  
6  
7  
Maximum penalty—500 penalty units or 5 years imprisonment. 8  
9
- (3) It is an *aggravating circumstance* for an offence against subsection (1) if the person— 10  
11
- (a) holds an exclusion; or 12
- (b) held a clearance that was cancelled on the person’s request under division 6; or 13  
14
- (c) is a disqualified person; or 15
- (d) holds a negative notice under the Working with Children Act; or 16  
17
- (e) is subject to— 18
- (i) offender reporting obligations; or 19
- (ii) an offender prohibition order; or 20
- (iii) an offender prohibition disqualification order; or 21  
22
- (iv) a sexual offender order; or 23
- (f) is the respondent to an application for an offender prohibition order. 24  
25
- Subdivision 3 General** 26
- 62 No contravention of particular requirements in absence of notice** 27  
28
- (1) This section applies in relation to— 29

[s 11]

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- (a) a provision of this division about a person carrying out disability work; and 1  
2
  - (b) a person who— 3
    - (i) held a clearance that was cancelled under division 6; or 4  
5
    - (ii) held an interstate NDIS clearance that was cancelled under a corresponding law; or 6  
7  
8
    - (iii) holds an exclusion issued to the person after the person’s clearance was cancelled under division 6; or 9  
10  
11
    - (iv) holds an interstate NDIS exclusion issued to the person after the person’s interstate NDIS clearance was cancelled under a corresponding law. 12  
13  
14  
15
  - (2) A court may not find that the person contravened the provision unless the person was given notice about the cancellation of the clearance or interstate NDIS clearance held by the person or the issue of the exclusion or interstate NDIS exclusion to the person. 16  
17  
18  
19  
20  
21
- 63 Complying with requirement to end, or not start, person’s engagement** 22  
23
- (1) This section applies if it would be an offence against a provision of this part for an NDIS service provider or funded service provider to engage, or continue to engage, a person (the *engaged person*) to carry out disability work. 24  
25  
26  
27  
28
  - (2) The NDIS service provider or funded service provider must comply with the provision despite another Act or law or any industrial award or agreement. 29  
30  
31  
32
  - (3) The NDIS service provider or funded service provider does not incur any liability because, in 33  
34

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|  |                            |
|--|----------------------------|
| complying with the provision, the service provider does not engage, or continue to engage, the engaged person to carry out disability work.  | 1<br>2<br>3                |
| (4) A person whose clearance is suspended under division 6, or whose interstate NDIS clearance is suspended under a corresponding law, may be engaged by the NDIS service provider or funded service provider other than to carry out disability work until the suspension ends. | 4<br>5<br>6<br>7<br>8<br>9 |
| <b>Division 3            Disability worker screening applications</b>  | 10<br>11                   |
| <b>Subdivision 1    Prohibited disability worker screening applications</b>  | 12<br>13<br>14             |
| <b>64    Application by exclusion holder prohibited</b>  | 15                         |
| (1) A person who holds an exclusion or an interstate NDIS exclusion must not make a disability worker screening application.   | 16<br>17<br>18             |
| Maximum penalty—500 penalty units or 5 years imprisonment.   | 19<br>20                   |
| (2) An application made in contravention of subsection (1) has no effect.  | 21<br>22                   |
| <b>Subdivision 2    Applications generally</b>   | 23                         |
| <b>65    Application related to NDIS disability work</b>   | 24                         |
| A person may apply to the chief executive for a clearance if the person—   | 25<br>26                   |
| (a) is, or proposes to be—   | 27                         |

[s 11]

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|           |   |                                  |
|-----------|---|----------------------------------|
| (i)       | engaged by an NDIS service provider to carry out NDIS disability work; or   | 1<br>2                           |
| (ii)      | an NDIS sole trader; or   | 3                                |
| (iii)     | engaged by an entity prescribed by regulation for this section; and   | 4<br>5                           |
| (b)       | complies with each other criterion prescribed by regulation for this section.   | 6<br>7                           |
| <b>66</b> | <b>Application related to State disability work</b>   | 8                                |
|           | A person may apply to the chief executive for a clearance if the person is, or proposes to be—  | 9<br>10                          |
| (a)       | engaged by the department or a funded service provider to carry out State disability work; or   | 11<br>12<br>13                   |
| (b)       | a State sole trader; or   | 14                               |
| (c)       | engaged by an entity prescribed by regulation for this section.   | 15<br>16                         |
| <b>67</b> | <b>Application combined with working with children check application</b>  | 17<br>18                         |
| (1)       | A person may combine an application under section 65 or 66 with a working with children check application.  | 19<br>20<br>21                   |
| (2)       | An application made under subsection (1) is a <i>combined application</i> .   | 22<br>23                         |
| (3)       | This part applies to a combined application to the extent it is an application under section 65 or 66.  | 24<br>25                         |
| (4)       | If a combined application is made to the chief executive, the chief executive must give the information in the combined application, to the extent the information relates to the person's working with children check application, to the chief executive (working with children). | 26<br>27<br>28<br>29<br>30<br>31 |



- 
- 68 Form of application** 1
- (1) A disability worker screening application must be— 2  
3
- (a) made in the approved form and in an approved way; and 4  
5
- (b) signed by the applicant; and 6
- (c) accompanied by the fee prescribed by regulation for the application. 7  
8
- (2) The approved form must provide for the applicant— 9  
10
- (a) to provide proof of the applicant’s identity; and 11  
12
- (b) to consent to being screened under this part; and 13  
14
- (c) if the applicant is engaged, or proposes to be engaged, to carry out disability work—to provide information about the entity that has engaged, or proposes to engage, the applicant to carry out the disability work. 15  
16  
17  
18  
19
- 69 Chief executive may request further information** 20  
21
- (1) After receiving a disability worker screening application, the chief executive may give the applicant a notice asking the applicant to give the chief executive, within a reasonable stated time— 22  
23  
24  
25
- (a) stated information the chief executive reasonably needs to establish the applicant’s identity; or 26  
27  
28
- (b) stated information, including by way of a submission, about a stated matter that the chief executive reasonably believes is relevant to the application. 29  
30  
31  
32
- (2) A request under subsection (1) must state that, if 33

[s 11]

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the applicant does not comply with the request 1  
within the stated time, the application may be 2  
withdrawn. 3

**70 Applicant must give notice of change in 4  
information 5**

- (1) This section applies if, before the chief executive 6  
decides a disability worker screening 7  
application— 8
- (a) the applicant’s name or contact details as 9  
stated in the application change; or 10
- (b) if the application states information about 11  
the applicant’s engagement with an NDIS 12  
service provider or funded service 13  
provider—the stated information changes; 14  
or 15
- (c) another matter, prescribed by regulation for 16  
this section, changes in relation to the 17  
applicant. 18
- (2) The applicant must give the chief executive a 19  
notice about the change, in the approved form and 20  
in an approved way, within 7 days after the 21  
change happens. 22
- Maximum penalty—10 penalty units. 23

**71 Notice of change in police information or risk 24  
assessment matter 25**

- (1) This section applies if, before the chief executive 26  
decides a disability worker screening application, 27  
the applicant becomes aware that— 28
- (a) the police information about the applicant 29  
changes; or 30
- (b) a risk assessment matter relating to the 31  
applicant changes. 32

- 
- (2) The applicant must immediately give the chief executive a notice about the change, in the approved form and in an approved way. Maximum penalty—100 penalty units. 1  
2  
3  
4
- (3) For subsection (1)(a), the police information about a person changes if a criminal history event happens in relation to the person. 5  
6  
7
- 72 Expired clearance continues in force pending decision** 8  
9
- (1) This section applies if an applicant holds a clearance that, but for this section, would end under section 101(2). 10  
11  
12
- (2) The clearance remains in force— 13
- (a) from when the clearance would have ended under section 101(2); and 14  
15
- (b) until— 16
- (i) the applicant’s disability worker screening application is decided or withdrawn; or 17  
18  
19
- (ii) the applicant stops being a person who may apply for a clearance under section 65 or 66. 20  
21  
22
- 73 Holder of expired interstate NDIS clearance taken to hold NDIS clearance pending decision** 23  
24
- (1) This section applies if an applicant holds an interstate NDIS clearance that ends under a corresponding law because the term of the clearance has ended. 25  
26  
27  
28
- (2) The applicant is taken to hold an NDIS clearance— 29  
30

[s 11]

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- (a) from the end of the term of the interstate NDIS clearance under the corresponding law; and 1  
2  
3
- (b) until— 4
  - (i) the applicant's disability worker screening application is decided or withdrawn; or 5  
6  
7
  - (ii) the applicant stops being a person who may apply for a clearance under section 65; or 8  
9  
10
  - (iii) an interim bar is imposed on the applicant. 11  
12

### **Subdivision 3 Withdrawal of application** 13

#### **74 Notice of withdrawal** 14

- (1) If the chief executive withdraws a disability worker screening application under this subdivision before it is decided, the chief executive must give the applicant a notice that states— 15  
16  
17  
18  
19
  - (a) the application is withdrawn; and 20
  - (b) the reason for the withdrawal. 21
- (2) The chief executive must also give a notice mentioned in subsection (1) to each notifiable person for the applicant. 22  
23  
24

#### **75 Withdrawal by applicant** 25

- (1) The applicant may ask the chief executive to withdraw the applicant's disability worker screening application at any time before it is decided. 26  
27  
28  
29
- (2) The request may be made orally or in writing. 30

- 
- (3) The chief executive must withdraw the application unless the chief executive refuses to withdraw the application under section 76. 1  
2  
3

**76 Refusal to withdraw by chief executive** 4

- (1) The chief executive may refuse to withdraw an applicant's disability worker screening application if— 5  
6  
7
- (a) an interim bar is in effect for the applicant; 8  
or 9
- (b) an interstate NDIS clearance held by the applicant is suspended under a corresponding law; or 10  
11  
12
- (c) the applicant was previously issued an exclusion or an interstate NDIS exclusion; 13  
or 14  
15
- (d) the chief executive, in relation to deciding the application— 16  
17
- (i) has given, or is proposing to give, the applicant a show cause notice under section 95; or 18  
19  
20
- (ii) reasonably suspects a risk assessment of the applicant will demonstrate that the applicant poses an unacceptable risk of harm to people with disability. 21  
22  
23  
24
- (2) If the chief executive refuses to withdraw the application, the chief executive must give the applicant a notice that states the reasons for the refusal. 25  
26  
27  
28

**77 Request to withdraw combined application** 29

- (1) This section applies if the applicant made a combined application. 30  
31
- (2) The applicant may combine a request to withdraw 32

[s 11]

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- the applicant's disability worker screening application under section 75 with a notice withdrawing the applicant's working with children check application. 1  
2  
3  
4
- (3) A request made under subsection (2) is a *combined withdrawal request*. 5  
6
- Note—* 7
- The request may be made orally or in writing. See— 8
- (a) section 75(2); and 9
- (b) the Working with Children Act, section 196(3). 10
- (4) This subdivision applies to a combined withdrawal request to the extent it is a request under section 75. 11  
12  
13
- (5) If a combined withdrawal request is made to the chief executive, the chief executive must give a notice about the combined withdrawal request to the chief executive (working with children). 14  
15  
16  
17
- 78 Withdrawal because identity can not be established** 18  
19
- The chief executive must withdraw a disability worker screening application if— 20  
21
- (a) the chief executive gives the applicant a notice under section 69(1)(a); and 22  
23
- (b) the notice includes the warning mentioned in section 69(2); and 24  
25
- (c) the chief executive can not establish the applicant's identity with certainty. 26  
27
- 79 Withdrawal because of failure to comply with particular requests** 28  
29
- The chief executive may withdraw a disability worker screening application if— 30  
31

- 
- (a) the chief executive gives the applicant— 1
    - (i) a notice under section 69(1)(b) asking 2  
the applicant to provide stated 3  
information; or 4
    - (ii) a notice under section 138U or 138X 5  
asking the applicant to give the 6  
consent, or take the other action, stated 7  
in the notice; and 8
  - (b) the notice includes a warning that, if the 9  
applicant does not comply with the notice, 10  
the application may be withdrawn; and 11
  - (c) the applicant does not comply with the 12  
notice. 13

**80 Withdrawal of NDIS worker screening 14  
application in particular circumstances 15**

The chief executive must withdraw an NDIS 16  
worker screening application if the chief 17  
executive is satisfied— 18

- (a) that, before the application was made, the 19  
applicant applied for an interstate NDIS 20  
clearance under a corresponding law and 21  
that application has not been decided or 22  
withdrawn; or 23
- (b) since the application was made, the 24  
applicant has been issued an interstate NDIS 25  
exclusion. 26

**Subdivision 4 Interim bar for particular 27  
applicants 28**

**81 Application of subdivision 29**

- (1) This subdivision applies if any of the following 30  
happens in relation to an applicant— 31

[s 11]

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|  |                                  |
|--|----------------------------------|
| (a) the applicant—   | 1                                |
| (i) is charged with a disqualifying offence that has not been dealt with; and  | 2<br>3                           |
| (ii) was an adult when the offence is alleged to have been committed;  | 4<br>5                           |
| (b) the applicant becomes the subject of a banning order made for a reason that, in the chief executive’s opinion, is relevant to whether the applicant poses a risk of harm to people with disability;                    | 6<br>7<br>8<br>9<br>10           |
| (c) the chief executive, in deciding the applicant’s application, reasonably suspects a risk assessment of the applicant will demonstrate that the applicant poses an unacceptable risk of harm to people with disability. | 11<br>12<br>13<br>14<br>15<br>16 |
| (2) However, this subdivision does not apply in relation to an applicant who holds a clearance that is suspended under division 6.   | 17<br>18<br>19                   |
| <i>Note—</i>   | 20                               |
| See sections 56, 60 and 113 in relation to the effect of the suspension of a person’s clearance.   | 21<br>22                         |
| <b>82 Chief executive must impose interim bar on applicant</b>   | 23<br>24                         |
| (1) The chief executive must impose an interim bar on the applicant.   | 25<br>26                         |
| (2) The chief executive imposes an interim bar by giving the applicant a notice that states—   | 27<br>28                         |
| (a) the interim bar is imposed on the applicant; and   | 29<br>30                         |
| (b) the reason for imposing the interim bar; and   | 31                               |
| (c) the effect of the interim bar.   | 32                               |



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|           |   |                            |
|-----------|---|----------------------------|
| <b>83</b> | <b>Notifiable persons and potential employers notified about interim bar</b>  | 1<br>2                     |
| (1)       | The chief executive must give each notifiable person for the applicant a notice that states—  | 3<br>4                     |
| (a)       | the applicant has made a disability worker screening application that has not been decided; and   | 5<br>6<br>7                |
| (b)       | an interim bar has been imposed on the applicant; and   | 8<br>9                     |
| (c)       | the effect of the interim bar; and  | 10                         |
| (d)       | an employer of the applicant who is given notice about the interim bar under this section must not terminate the applicant's employment solely or mainly because the interim bar is in effect for the person. | 11<br>12<br>13<br>14<br>15 |
|           | <i>Note—</i>  | 16                         |
|           | See section 138ZZB in relation to notices under this section if the NDIS commission communicates the relevant information to the notifiable person.   | 17<br>18<br>19             |
| (2)       | Also, the chief executive may give a notice mentioned in subsection (1) to a potential employer of the applicant.   | 20<br>21<br>22             |
| <b>84</b> | <b>Effect of interim bar</b>  | 23                         |
| (1)       | This section applies if the chief executive imposes an interim bar on an applicant under section 82.  | 24<br>25                   |
| (2)       | While the interim bar is in effect, the applicant must not—   | 26<br>27                   |
| (a)       | start an engagement to carry out disability work; or  | 28<br>29                   |
| (b)       | if, when the interim bar is imposed, the applicant is engaged to carry out disability work for an NDIS service provider, funded service provider or the department—carry                                      | 30<br>31<br>32<br>33       |

[s 11]

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- out work for the service provider or department that is disability work; or 1  
2
- (c) carry out disability work as an NDIS sole trader or State sole trader. 3  
4
- Maximum penalty—500 penalty units or 5 years imprisonment. 5  
6
- (3) An employer of the applicant who is given notice about the interim bar under section 83 must not terminate the applicant’s employment solely or mainly because the interim bar is in effect for the applicant. 7  
8  
9  
10  
11
- Notes—* 12
- 1 See also sections 56 and 60 in relation to NDIS service providers or funded service providers allowing the applicant to carry out disability work. 13  
14  
15
- 2 See section 138ZZB in relation to notices under section 83 if the NDIS commission communicates the relevant information to the notifiable person. 16  
17  
18
- 85 When interim bar ends** 19
- (1) An interim bar imposed on an applicant ends if— 20
- (a) the applicant’s disability worker screening application is— 21  
22
- (i) decided under division 4; or 23
- (ii) withdrawn under subdivision 3; or 24
- (b) the chief executive decides to end the interim bar under subsection (2). 25  
26
- (2) The chief executive may decide to end an interim bar if the chief executive reasonably suspects that a risk assessment of the applicant will demonstrate that the applicant does not pose an unacceptable risk of harm to people with disability. 27  
28  
29  
30  
31  
32
- (3) If an interim bar has been imposed on the 33



[s 11]

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|  |  |
|--|--|
| <b>Subdivision 1 Preliminary</b>   | 1                                      |
| <b>86 Application of division</b>  | 2                                      |
| This division applies if a person made a disability<br>worker screening application and the application<br>has not been withdrawn.   | 3<br>4<br>5                            |
| <b>87 Dealing with application</b>   | 6                                      |
| (1) The chief executive must—  | 7                                      |
| (a) consider the person’s application and the<br>information available to the chief executive<br>about the person; and   | 8<br>9<br>10                           |
| (b) if section 89 or 90 apply to the person—<br>decide the application under that section;<br>and  | 11<br>12<br>13                         |
| (c) if section 91 or 92 apply to the person—<br>conduct a risk assessment of the person<br>before deciding the application under that<br>section.  | 14<br>15<br>16<br>17                   |
| (2) However, the chief executive is not required to<br>decide the person’s application if—   | 18<br>19                               |
| (a) a charge for an offence against the person<br>has not been dealt with; or  | 20<br>21                               |
| (b) the chief executive is aware that an incident<br>involving the person, or an allegation or<br>complaint about the person’s conduct, that is<br>relevant to whether the person poses a risk<br>of harm to people with disability is being<br>investigated and the investigation has not<br>ended. | 22<br>23<br>24<br>25<br>26<br>27<br>28 |
| <b>88 Information to be considered</b>   | 29                                     |
| (1) The chief executive must consider each of the  | 30                                     |

- 
- following types of information for a person of which the chief executive is aware, if any—
- (a) police information;
  - (b) domestic violence information;
  - (c) disciplinary information;
  - (d) NDIS disciplinary or misconduct information;
  - (e) information about—
    - (i) whether the person holds, or has previously held, a clearance, interstate NDIS clearance, exclusion or interstate NDIS exclusion; or
    - (ii) if the person has previously held a clearance or interstate NDIS clearance—whether the clearance was suspended at any time or cancelled.
- (2) The chief executive may consider other information about the person that is relevant to whether the person poses a risk of harm to people with disability.

## **Subdivision 2 Deciding application**

### **89 Deciding application—no relevant information**

The chief executive must issue a clearance to the person if the chief executive is not aware of any information mentioned in section 88 about the person.

### **90 Deciding application—disqualified person**

- (1) This section applies if the chief executive is aware the person is a disqualified person.

[s 11]

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|           |   |                            |
|-----------|---|----------------------------|
| (2)       | The chief executive must issue an exclusion to the person.  | 1<br>2                     |
| <b>91</b> | <b>Deciding application—exceptional circumstances for adult offender</b>  | 3<br>4                     |
| (1)       | This section applies if the chief executive is aware—   | 5<br>6                     |
| (a)       | the person has a conviction for a serious offence and was an adult when the offence was committed; or   | 7<br>8<br>9                |
| (b)       | the person—   | 10                         |
| (i)       | has been charged with a disqualifying offence or serious offence that has not been dealt with; and  | 11<br>12<br>13             |
| (ii)      | was an adult when the offence is alleged to have been committed.  | 14<br>15                   |
|           | <i>Note—</i>  | 16                         |
|           | See section 95 for the requirement for the chief executive to give the person a show cause notice before deciding the person’s application if this section applies.                                       | 17<br>18<br>19             |
| (2)       | The chief executive must issue the person an exclusion.   | 20<br>21                   |
| (3)       | However, the chief executive may issue the person a clearance if satisfied there are exceptional circumstances such that the person does not pose an unacceptable risk of harm to people with disability. | 22<br>23<br>24<br>25<br>26 |
| <b>92</b> | <b>Deciding application—general assessment of risk posed</b>  | 27<br>28                   |
| (1)       | This section applies if sections 89, 90 and 91 do not apply to the person.  | 29<br>30                   |
| (2)       | The chief executive must—   | 31                         |

- 
- (a) if satisfied the person does not pose an unacceptable risk of harm to people with disability—issue a clearance to the person; or 1  
2  
3  
4
  - (b) if satisfied the person poses an unacceptable risk of harm to people with disability—issue an exclusion to the person. 5  
6  
7

**Subdivision 3 Assessing risk person poses to people with disability** 8  
9  
10

**93 How chief executive conducts risk assessment** 11  
12

- (1) The chief executive conducts a risk assessment of a person by— 13  
14
  - (a) considering the information about the person obtained by the chief executive under this part; and 15  
16  
17
  - (b) deciding whether the person poses an unacceptable risk of harm to people with disability. 18  
19  
20
- (2) In conducting the risk assessment, the chief executive— 21  
22
  - (a) must consider information as required under this division; and 23  
24
  - (b) may decide the person poses an unacceptable risk of harm to people with disability— 25  
26  
27
    - (i) if satisfied there is a real and appreciable risk that the person might cause harm to people with disability; and 28  
29  
30  
31

[s 11]

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- (ii) without needing to be satisfied it is likely the person will cause the harm. 1  
2

**94 Matters to consider** 3

- (1) This section applies if the chief executive is aware of conduct of the person (the person's *offending conduct*) that— 4  
5  
6
  - (a) involved the commission of an offence; or 7
  - (b) was the subject of a complaint, allegation or investigation under a law; or 8  
9
  - (c) is otherwise relevant to whether the person poses a risk of harm to people with disability. 10  
11  
12
- (2) The chief executive must consider the following matters— 13  
14
  - (a) the nature, gravity and circumstances of the person's offending conduct; 15  
16
  - (b) how the person's offending conduct is relevant to disability work; 17  
18
  - (c) how long ago the person's offending conduct occurred; 19  
20
  - (d) if the person's offending conduct was committed against another person (the *victim*)— 21  
22  
23
    - (i) the victim's vulnerability at the time of the conduct; and 24  
25
    - (ii) the person's relationship to, or position of authority over, the victim at the time of the conduct; 26  
27  
28
  - (e) whether the person's offending conduct indicates a pattern of concerning behaviour; 29  
30
  - (f) the person's conduct since the offending conduct; 31  
32



- 
- (g) any other circumstances relevant to the person's offending conduct. 1  
2

**95 Action before making adverse decision** 3

- (1) This section applies if— 4
- (a) section 91 applies to the person; or 5
  - (b) the chief executive is proposing to decide that the person poses an unacceptable risk of harm to people with disability. 6  
7  
8
- (2) Before deciding the person's application, the chief executive must— 9  
10
- (a) give the person a notice (a *show cause notice*) that complies with section 96; and 11  
12
  - (b) consider any submissions the person makes in response to the show cause notice. 13  
14

**96 Requirements for show cause notice** 15

- A show cause notice given to a person under section 95 must— 16  
17
- (a) state the following information about the person of which the chief executive is aware— 18  
19  
20
    - (i) police information; 21
    - (ii) domestic violence information; 22
    - (iii) disciplinary information; 23
    - (iv) NDIS disciplinary or misconduct information; 24  
25
    - (v) other information that the chief executive reasonably believes is relevant to whether the person poses a risk of harm to people with disability; 26  
27  
28  
29  
and 30

[s 11]

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- (b) state that, because of the circumstances mentioned in section 95(1), the chief executive proposes to issue the person an exclusion unless the chief executive is satisfied that—
  - (i) if section 91 applies to the person— there are exceptional circumstances; and
  - (ii) the person does not pose an unacceptable risk of harm to people with disability; and
- (c) invite the person to make submissions to the chief executive about—
  - (i) if section 91 applies to the person— whether there are exceptional circumstances; and
  - (ii) why the chief executive should not issue an exclusion to the person; and
- (d) state the period in which the person may make the submissions, which must be at least 7 days after the chief executive gives the notice to the person.

#### **Subdivision 4 Steps after application decided**

#### **97 Application of subdivision**

This subdivision applies if the chief executive decides a person's disability worker screening application.

#### **98 Issuing clearance and clearance card**

- (1) If the chief executive decides to issue a clearance

- 
- to the person, the chief executive must— 1
- (a) give the person a notice that states the chief 2  
executive has decided— 3
- (i) if the person made an NDIS worker 4  
screening application—to issue the 5  
person an NDIS clearance; or 6
- (ii) if the person made a State disability 7  
worker screening application—to issue 8  
the person a State clearance; and 9
- (b) issue a clearance card for the clearance to 10  
the person. 11
- (2) A *clearance card*, for a clearance issued to a 12  
person, is a document, in the form of a card, that 13  
evidences that the clearance has been issued to the 14  
person. 15

## **99 Issuing exclusion** 16

- If the chief executive decides to issue an 17  
exclusion to the person, the chief executive must 18  
give the person a notice that states— 19
- (a) the chief executive has decided— 20
- (i) if the person made an NDIS worker 21  
screening application—to issue the 22  
person an NDIS exclusion; or 23
- (ii) if the person made a State disability 24  
worker screening application—to issue 25  
the person a State exclusion; and 26
- (b) the reasons for the decision; and 27
- (c) the relevant review and appeal information; 28  
and 29
- (d) that it is an offence against this Act for a 30  
person who holds an exclusion to— 31

[s 11]

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|   |                |
|---|----------------|
| (i) make a disability worker screening application; or  | 1<br>2         |
| (ii) start or continue to be engaged in carrying out disability work; or  | 3<br>4         |
| (iii) carry out NDIS disability work as an NDIS sole trader or State disability work as a State sole trader.  | 5<br>6<br>7    |
| <b>100 Notifiable persons and potential employers notified about decision</b>   | 8<br>9         |
| (1) The chief executive must give each notifiable person for the person a notice that states whether the person was issued—                         | 10<br>11<br>12 |
| (a) if the person made an NDIS worker screening application—an NDIS clearance or NDIS exclusion; or   | 13<br>14<br>15 |
| (b) if the person made a State disability worker screening application—a State clearance or State exclusion.  | 16<br>17<br>18 |
| <i>Note—</i>  | 19             |
| See section 138ZZB in relation to notices under this section if the NDIS commission communicates the relevant information to the notifiable person. | 20<br>21<br>22 |
| (2) Also, the chief executive may give a notice mentioned in subsection (1) to a potential employer of the person.                                  | 23<br>24<br>25 |
| <b>101 Term of clearance</b>  | 26             |
| (1) The term of a clearance starts—   | 27             |
| (a) when the clearance is issued; or  | 28             |
| (b) if the person holds another clearance with a term that ends on a later day—immediately after the existing clearance ends.                       | 29<br>30<br>31 |
| (2) Unless it is cancelled earlier under division 6, the  | 32             |

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|  |                |
|--|----------------|
| term of a clearance ends—  | 1              |
| (a) for an NDIS clearance—5 years after it starts under subsection (1); or                                 | 2<br>3         |
| (b) for a State clearance—3 years after it starts under subsection (1).                                    | 4<br>5         |
| <b>102 Term of exclusion</b>   | 6              |
| An exclusion remains in force unless it is cancelled under division 7.                                     | 7<br>8         |
| <b>Division 5            General provisions about clearances</b>   | 9<br>10        |
| <b>Subdivision 1    Change in information</b>  | 11             |
| <b>103 Clearance holder to notify if no longer carrying out work as volunteer or on unpaid basis</b>       | 12<br>13       |
| (1) This section applies if—   | 14             |
| (a) a person holds a clearance that is not suspended; and  | 15<br>16       |
| (b) during the term of the clearance, the person is or was—  | 17<br>18       |
| (i) engaged to carry out disability work only as a volunteer; or   | 19<br>20       |
| (ii) carrying out disability work as an NDIS sole trader or State sole trader only on an unpaid basis; and | 21<br>22<br>23 |
| (c) either of the following changes happens—   | 24             |
| (i) the person is engaged to carry out disability work other than as a volunteer;                          | 25<br>26<br>27 |

[s 11]

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- (ii) the person starts carrying out disability work as an NDIS sole trader or State sole trader for financial reward. 1  
2  
3
- (2) The person must, within 14 days after the change happens— 4  
5
- (a) give the chief executive a notice, in the approved form and in an approved way, about the change; and 6  
7  
8
- (b) if the person is required to pay the prescribed application fee under subsection (3)—pay the prescribed application fee to the chief executive. 9  
10  
11  
12
- Maximum penalty—10 penalty units. 13
- Note—* 14
- See section 106 in relation to the chief executive issuing a replacement clearance card because of the change. 15  
16
- (3) The person must pay the prescribed application fee if the disability worker screening application in relation to which the clearance was issued was made on the basis that the person was— 17  
18  
19  
20
- (a) engaged, or to be engaged, to carry out disability work only as a volunteer; or 21  
22
- (b) carrying out, or proposing to carry out, disability work as an NDIS sole trader or State sole trader only on an unpaid basis. 23  
24  
25
- (4) In this section— 26
- prescribed application fee*** means the fee prescribed by regulation for a disability worker screening application made by a person— 27  
28  
29
- (a) for a person who gives a notice under subsection (2) for a change mentioned in subsection (1)(c)(i)—engaged to carry out disability work other than as a volunteer; or 30  
31  
32  
33

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(b) for a person who gives a notice under subsection (2) for a change mentioned in subsection (1)(c)(ii)—carrying out disability work as an NDIS sole trader or State sole trader for financial reward.

*unpaid basis*, for carrying out disability work, means the work is carried out other than for financial reward.

#### **104 Clearance holder to notify change in other information**

(1) A person who holds a clearance must immediately give the chief executive a notice, in the approved form and in an approved way, if the person becomes aware that—

(a) the police information about the person changes; or

(b) a risk assessment matter relating to the person changes.

Maximum penalty—100 penalty units.

(2) For subsection (1), the police information about a person changes if a criminal history event happens in relation to the person.

(3) Also, a person who holds a clearance must, within 14 days after any of the following matters change, give the chief executive a notice, in the approved form and in an approved way, about the change—

(a) the person's name;

(b) the person's contact details;

(c) another matter about the person, other than a matter to which section 103 or subsection (1) applies, prescribed by regulation for this subsection.

Maximum penalty—10 penalty units.

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|  |             |
|--|-------------|
| <b>Subdivision 2 Replacement of clearance card</b>   | 1<br>2      |
| <b>105 Replacement of lost or stolen card</b>  | 3           |
| (1) If a person's clearance card is lost or stolen (the <i>lost or stolen card</i> ), the person must, within 14 days after the loss or theft— | 4<br>5<br>6 |
| (a) give the chief executive a notice about the loss or theft in the approved form and in an approved way; and                                 | 7<br>8<br>9 |
| (b) either—  | 10          |
| (i) apply for a replacement clearance card; or   | 11<br>12    |
| (ii) ask the chief executive under section 124 to cancel the person's clearance.   | 13<br>14    |
| Maximum penalty—10 penalty units.  | 15          |
| (2) An application under subsection (1)(b)(i) must be—   | 16<br>17    |
| (a) made in the approved form and in an approved way; and  | 18<br>19    |
| (b) accompanied by the fee prescribed by regulation for the application.   | 20<br>21    |
| (3) The chief executive must—  | 22          |
| (a) cancel the lost or stolen card; and  | 23          |
| (b) if the person applied for a replacement clearance card under subsection (1)(b)(i)—   | 24<br>25    |
| issue a replacement clearance card to the person.  | 26<br>27    |
| <b>106 Replacement for change of name, contact details or volunteer or unpaid status</b>   | 28<br>29    |
| (1) This section applies if a person who holds a   | 30          |



- 
- clearance gives the chief executive notice that— 1
- (a) the person’s name or contact details have 2  
changed; or 3
- (b) a change mentioned in section 103(1)(c) has 4  
happened. 5
- (2) If the chief executive considers it is appropriate to 6  
do so because of the change, the chief executive 7  
may issue a replacement clearance card to the 8  
person. 9
- (3) If the chief executive issues a replacement 10  
clearance card to the person, the chief executive 11  
must cancel the person’s previously held 12  
clearance card. 13

### **107 Requirement to return replaced card 14**

- (1) This section applies if the chief executive issues a 15  
clearance card (the *replacement card*) to a person 16  
who holds a clearance to replace a clearance card 17  
(the *original card*) previously issued to the 18  
person. 19
- (2) If the replacement card is issued other than 20  
because the person’s original card expired or was 21  
lost or stolen, the person must give the original 22  
card to the chief executive within 14 days after the 23  
replacement card is issued. 24
- Maximum penalty—10 penalty units. 25
- (3) If the person’s original card was lost or stolen and 26  
the person regains possession of it, the person 27  
must give the original card to the chief executive 28  
within 7 days after regaining possession of it. 29
- Maximum penalty—10 penalty units. 30
- (4) A person does not commit an offence against 31  
subsection (2) or (3) if the person has a reasonable 32  
excuse. 33

[s 11]

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|                      |  |    |
|----------------------|--|----|
| <b>Division 6</b>    | <b>Reassessment,</b>                                   | 1  |
|                      | <b>suspension or cancellation</b>                      | 2  |
|                      | <b>of clearance</b>                                    | 3  |
| <b>Subdivision 1</b> | <b>Reassessment of risk of</b>                         | 4  |
|                      | <b>harm to people with</b>                             | 5  |
|                      | <b>disability</b>                                      | 6  |
| <b>108</b>           | <b>Reassessment of risk of harm posed by holder</b>    | 7  |
|                      | <b>of clearance</b>                                    | 8  |
| (1)                  | The chief executive may conduct a risk                 | 9  |
|                      | assessment of a person who holds a clearance if        | 10 |
|                      | the chief executive becomes aware of information       | 11 |
|                      | about the person that—                                 | 12 |
| (a)                  | was not known to the chief executive when              | 13 |
|                      | the decision to issue the clearance was                | 14 |
|                      | made; and  | 15 |
| (b)                  | in the chief executive’s opinion, is relevant          | 16 |
|                      | to whether the person poses a risk of harm to          | 17 |
|                      | people with disability.                                | 18 |
| (2)                  | The chief executive must conduct a risk                | 19 |
|                      | assessment of a person, under subsection (1) or        | 20 |
|                      | otherwise, before the chief executive makes a          | 21 |
|                      | decision under this division about whether the         | 22 |
|                      | person poses an unacceptable risk of harm to           | 23 |
|                      | people with disability.                                | 24 |
| <b>109</b>           | <b>Application of div 4, sdiv 3 to conducting risk</b> | 25 |
|                      | <b>assessment</b>                                      | 26 |
| (1)                  | Division 4, subdivision 3 applies with necessary       | 27 |
|                      | changes for conducting a risk assessment of a          | 28 |
|                      | person under section 108.                              | 29 |
| (2)                  | Without limiting subsection (1), section 95            | 30 |

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applies if, under this division, the chief executive  
is proposing to decide that the person poses an  
unacceptable risk of harm to people with  
disability.

*Note—*

Section 95 requires the chief executive to give a person a  
show cause notice, and invite the person to make  
submissions, before the chief executive decides the  
person poses an unacceptable risk of harm to people  
with disability.

## **Subdivision 2 Suspension of clearance**

### **110 Application of subdivision**

This subdivision applies in relation to a person  
who holds a clearance if—

- (a) the person—
  - (i) is charged with a disqualifying offence  
that has not been dealt with; and
  - (ii) was an adult when the offence is  
alleged to have been committed; or
- (b) the person becomes the subject of a banning  
order made for a reason that, in the chief  
executive’s opinion, is relevant to whether  
the person poses a risk of harm to people  
with disability; or
- (c) the chief executive—
  - (i) is conducting a risk assessment of the  
person under subdivision 1; and
  - (ii) reasonably suspects the assessment  
will demonstrate that the person poses  
an unacceptable risk of harm to people  
with disability.

[s 11]

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- 111 Chief executive must suspend clearance** 1
- (1) The chief executive must suspend the person's 2  
clearance by giving the person a notice (a 3  
*suspension notice*) about the suspension. 4
- (2) The suspension notice must state— 5
- (a) the person's clearance is suspended; and 6
- (b) the reason for the suspension; and 7
- (c) how long the suspension will continue; and 8
- (d) the effect of the suspension; and 9
- (e) under section 128, the person must return 10  
the person's clearance card to the chief 11  
executive immediately after the notice is 12  
given, unless the person has a reasonable 13  
excuse; and 14
- (f) the relevant review and appeal information. 15
- 112 Notifiable persons and potential employers 16  
notified about suspension** 17
- (1) The chief executive must give each notifiable 18  
person for the person a notice that states— 19
- (a) the person's clearance is suspended; and 20
- (b) how long the suspension will continue; and 21
- (c) the effect of the suspension; and 22
- (d) it is an offence for an NDIS service provider 23  
or funded service provider to allow the 24  
person to carry out disability work while the 25  
clearance is suspended; and 26
- (e) an employer of the person who is given 27  
notice about the suspension of the person's 28  
clearance under this section must not 29  
terminate the person's employment solely or 30  
mainly because of the suspension. 31

*Note—*

- See section 138ZZB in relation to notices under this section if the NDIS commission communicates the relevant information to the notifiable person.
- (2) Also, the chief executive may give a notice mentioned in subsection (1) to a potential employer of the person.

**113 Effect of suspension of clearance**

- (1) This section applies while the person's clearance is suspended.
- (2) The person must not—
- (a) start an engagement to carry out disability work; or
  - (b) if the person is engaged to carry out disability work for an NDIS service provider, funded service provider or the department—carry out work for the service provider or department that is disability work; or
  - (c) carry out disability work as an NDIS sole trader or State sole trader.
- Maximum penalty—500 penalty units or 5 years imprisonment.
- (3) An employer of the person who is given notice about the suspension of the person's clearance under section 112 must not terminate the person's employment solely or mainly because of the suspension.

*Notes—*

- 1 See also sections 56 and 60 in relation to NDIS service providers or funded service providers allowing the person to carry out disability work.

[s 11]

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- 2 See section 138ZZB in relation to notices under section 112 if the NDIS commission communicates the relevant information to the notifiable person. 1  
2  
3
- (4) The person's clearance continues in force even if it would otherwise end under section 101(2). 4  
5
- 114 When suspension of clearance ends** 6
- The suspension of the person's clearance ends if— 7  
8
- (a) the chief executive decides to cancel the clearance under section 115; or 9  
10
- (b) the suspension ends under section 118; or 11
- (c) the clearance is otherwise cancelled under this division. 12  
13
- 115 Deciding whether to cancel suspended clearance** 14  
15
- (1) The chief executive may decide whether or not to cancel the person's suspended clearance— 16  
17
- (a) on the chief executive's own initiative; or 18
- (b) in response to an application made by the person under section 116. 19  
20
- (2) The chief executive must cancel the person's clearance if the chief executive decides the person poses an unacceptable risk of harm to people with disability. 21  
22  
23  
24
- Note—* 25
- See sections 108(2) and 109 in relation to making a decision under this section. 26  
27
- (3) Otherwise, the chief executive may decide to— 28
- (a) not cancel the person's clearance; and 29
- (b) end the suspension of the clearance. 30

- 
- 116 Application to chief executive to end suspension of clearance** 1  
2
- (1) If the person’s clearance has been suspended for 3  
at least 6 months, the person may apply to the 4  
chief executive to end the suspension of the 5  
clearance. 6
- (2) The application must be made in the approved 7  
form and in an approved way. 8
- (3) The chief executive is not required to decide the 9  
person’s application if— 10
- (a) a charge for an offence against the person 11  
has not been dealt with; or 12
- (b) the chief executive is aware that an incident 13  
involving the person, or an allegation or 14  
complaint about the person’s conduct, that is 15  
relevant to whether the person poses a risk 16  
of harm to people with disability is being 17  
investigated and the investigation has not 18  
ended. 19
- (4) The chief executive may decide the application— 20
- (a) by deciding under section 115 whether or 21  
not to cancel the person’s clearance; or 22
- (b) by deciding— 23
- (i) not to make a decision under section 24  
115; and 25
- (ii) to continue the suspension of the 26  
person’s clearance. 27
- (5) If the chief executive makes a decision mentioned 28  
in subsection (4)(b), the chief executive must give 29  
the person a notice that states— 30
- (a) the decision and reasons for the decision; 31  
and 32
- (b) the relevant review and appeal information. 33

[s 11]

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- 117 Chief executive decides to cancel suspended clearance** 1  
2
- (1) If the chief executive decides to cancel the 3  
person's clearance under section 115, the chief 4  
executive must— 5
- (a) cancel the clearance; and 6
- (b) issue an exclusion to the person as 7  
follows— 8
- (i) for a person who held an NDIS 9  
clearance—an NDIS exclusion; 10
- (ii) for a person who held a State 11  
clearance—a State exclusion; and 12
- (c) give the person a notice that states— 13
- (i) the decision and reasons for the 14  
decision; and 15
- (ii) that, if the person has not returned the 16  
person's clearance card to the chief 17  
executive, under section 128, the 18  
person must return the person's 19  
clearance card to the chief executive 20  
immediately, unless the person has a 21  
reasonable excuse; and 22
- (iii) the relevant review and appeal 23  
information; and 24
- (iv) the circumstances in which the person 25  
may apply under section 130 for the 26  
exclusion to be cancelled; and 27
- (d) give each notifiable person for the person, 28  
and each potential employer of the person 29  
given notice about the suspension of the 30  
clearance under section 112(2), a notice that 31  
states— 32
- (i) the person's clearance has been 33  
cancelled; and 34



(ii) the person has been issued an exclusion; and 1  
2

(iii) it is an offence for an NDIS service provider or funded service provider to engage, or to continue to engage, the person to carry out disability work. 3  
4  
5  
6

*Note—* 7

See section 138ZZB in relation to notices under this paragraph if the NDIS commission communicates the relevant information to the notifiable person. 8  
9  
10  
11

(2) Also, the chief executive may give a notice mentioned in subsection (1)(d) to another potential employer of the person. 12  
13  
14

**118 Chief executive decides not to cancel suspended clearance** 15  
16

(1) This section applies if, under section 115, the chief executive decides not to cancel the person's clearance and end the suspension of the clearance. 17  
18  
19

(2) The suspension of the person's clearance ends. 20

(3) The chief executive must— 21

(a) give a notice that states the suspension of the person's clearance has ended to— 22  
23

(i) the person; and 24

(ii) each notifiable person for the person; and 25  
26

(iii) each potential employer for the person who was given a notice about the suspension under section 112(2); and 27  
28  
29

(b) if the chief executive has the person's clearance card and the term of the person's clearance has not ended under section 101(2)—return the person's clearance card to the person. 30  
31  
32  
33  
34

[s 11]

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|                      |   |                      |
|----------------------|---|----------------------|
| <b>Subdivision 3</b> | <b>Cancelling clearance by chief executive</b>  | 1<br>2               |
| <b>119</b>           | <b>Cancelling clearance—disqualified person</b>   | 3                    |
| (1)                  | The chief executive must cancel a person’s clearance if the person becomes a disqualified person.   | 4<br>5<br>6          |
| (2)                  | This section applies whether or not the person’s clearance is suspended under section 111.  | 7<br>8               |
| <b>120</b>           | <b>Cancelling clearance—wrong or incomplete information</b>   | 9<br>10              |
| (1)                  | The chief executive must cancel a person’s clearance if the chief executive—  | 11<br>12             |
| (a)                  | becomes aware the decision to issue the clearance was based on information that was wrong or incomplete; and  | 13<br>14<br>15       |
| (b)                  | decides the person poses an unacceptable risk of harm to people with disability.  | 16<br>17             |
|                      | <i>Note—</i>  | 18                   |
|                      | See sections 108(2) and 109 in relation to making a decision under this section.  | 19<br>20             |
| (2)                  | A risk assessment of the person conducted before the chief executive makes a decision mentioned in subsection (1)(b) must include consideration of the correct or complete information. | 21<br>22<br>23<br>24 |
| (3)                  | This section applies whether or not the person’s clearance is suspended under section 111.  | 25<br>26             |
| <b>121</b>           | <b>Cancelling clearance—new relevant information</b>  | 27<br>28             |
| (1)                  | The chief executive must cancel a person’s clearance if the chief executive—  | 29<br>30             |

- 
- (a) becomes aware of information that— 1
- (i) was not known to the chief executive 2  
when the decision to issue the 3  
clearance was made; and 4
- (ii) in the chief executive’s opinion, is 5  
relevant to whether the person poses a 6  
risk of harm to people with disability; 7  
and 8
- (b) has not suspended the person’s clearance 9  
under section 111; and 10
- (c) decides the person poses an unacceptable 11  
risk of harm to people with disability. 12
- Note—* 13
- See sections 108(2) and 109 in relation to making a 14  
decision under this section. 15
- (2) A risk assessment of the person conducted before 16  
the chief executive makes a decision mentioned in 17  
subsection (1)(c) must include consideration of 18  
the information mentioned in subsection (1)(a). 19

**122 Action after decision** 20

If the chief executive is required, or decides, to 21  
cancel a person’s clearance under this 22  
subdivision, the chief executive must— 23

- (a) cancel the person’s clearance; and 24
- (b) issue an exclusion to the person as 25  
follows— 26
- (i) for a person who held an NDIS 27  
clearance—an NDIS exclusion; 28
- (ii) for a person who held a State 29  
clearance—a State exclusion; and 30
- (c) give the person a notice that states— 31

[s 11]

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- (i) the decision to cancel the clearance and issue the exclusion and the reasons for the decision; and
- (ii) under section 128, the person must return the person's clearance card to the chief executive immediately, unless the person has a reasonable excuse; and
- (iii) the relevant review and appeal information; and
- (iv) the circumstances in which the person may apply under section 130 for the exclusion to be cancelled.

**123 Notifiable persons and potential employers notified about cancellation**

- (1) If the chief executive cancels a person's clearance under this subdivision, the chief executive must give each notifiable person for the person a notice that states—
  - (a) the person's clearance has been cancelled; and
  - (b) the person has been issued an exclusion; and
  - (c) it is an offence for an NDIS service provider or funded service provider to engage, or to continue to engage, the person to carry out disability work.

*Note—*

See section 138ZZB in relation to notices under this section if the NDIS commission communicates the relevant information to the notifiable person.

- (2) Also, the chief executive may give a notice mentioned in subsection (1) to a potential employer of the person.

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|  |                |
|--|----------------|
| <b>Subdivision 4 Cancellling clearance on holder’s request</b>   | 1<br>2         |
| <b>124 Request to cancel clearance</b>   | 3              |
| (1) A person may ask the chief executive to cancel the person’s clearance.   | 4<br>5         |
| (2) The request must be made in the approved form and in an approved way.  | 6<br>7         |
| <b>125 Refusal to cancel clearance</b>   | 8              |
| (1) The chief executive must refuse a person’s request under section 124 if—   | 9<br>10        |
| (a) the person’s clearance is suspended; or  | 11             |
| (b) the chief executive is conducting, or proposes to conduct, a risk assessment of the person under subdivision 1; or | 12<br>13<br>14 |
| (c) the chief executive is aware the person has become a disqualified person.  | 15<br>16       |
| (2) The chief executive must give the person a notice that states—   | 17<br>18       |
| (a) the chief executive is refusing the request to cancel the person’s clearance; and                                  | 19<br>20       |
| (b) the reasons for the refusal.   | 21             |
| <b>126 Cancellation of clearance</b>   | 22             |
| (1) This section applies if a request under section 124 is not refused by the chief executive under section 125.       | 23<br>24<br>25 |
| (2) The chief executive must—  | 26             |
| (a) cancel the person’s clearance; and   | 27             |
| (b) give the person a notice that states—  | 28             |

[s 11]

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- (i) the clearance has been cancelled; and 1
- (ii) under section 128, the person must 2  
return the person's clearance card to 3  
the chief executive immediately after 4  
the notice is given, unless the person 5  
has a reasonable excuse; and 6
- (iii) it is an offence for the person to be 7  
engaged in carrying out disability 8  
work, or to carry out disability work as 9  
an NDIS sole trader or State sole 10  
trader, other than as allowed under 11  
division 2. 12

**127 Notifiable persons and potential employers 13  
notified about cancellation 14**

- (1) If the chief executive cancels a person's clearance 15  
under section 126, the chief executive must give a 16  
notice to each notifiable person for the person that 17  
states— 18
  - (a) the person's clearance has been cancelled on 19  
the person's request; and 20
  - (b) it is an offence for an NDIS service provider 21  
or funded service provider to engage, or 22  
continue to engage, the person in disability 23  
work other than as allowed under division 2. 24

*Note—* 25

See section 138ZZB in relation to notices under this 26  
section if the NDIS commission communicates the 27  
relevant information to the notifiable person. 28

- (2) Also, the chief executive may give a potential 29  
employer for the person a notice mentioned in 30  
subsection (1). 31

**Subdivision 5 Return of clearance card 32**

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|  |                            |
|--|----------------------------|
| <b>128 Requirement to return suspended or cancelled card</b>   | 1<br>2                     |
| (1) This section applies to a person if the chief executive gives the person a notice that states the person's clearance is suspended or cancelled.  | 3<br>4<br>5                |
| (2) The person must return the person's clearance card for the clearance to the chief executive immediately after the notice is given, unless the person has a reasonable excuse.  | 6<br>7<br>8<br>9           |
| Maximum penalty—100 penalty units.   | 10                         |
| <br>   |                            |
| <b>Division 7 Cancellation of exclusion</b>  | 11                         |
| <br>   |                            |
| <b>129 Application of div 4, sdiv 3 to conducting risk assessment</b>  | 12<br>13                   |
| (1) The chief executive must conduct a risk assessment of a person before the chief executive makes a decision under this division about whether the person poses an unacceptable risk of harm to people with disability.            | 14<br>15<br>16<br>17<br>18 |
| (2) Division 4, subdivision 3 applies for conducting the risk assessment with necessary changes.   | 19<br>20                   |
| (3) Without limiting subsection (2), section 95 applies if, under this division, the chief executive is proposing to decide that the person poses an unacceptable risk of harm to people with disability.                            | 21<br>22<br>23<br>24<br>25 |
| <i>Note—</i>   | 26                         |
| Section 95 requires the chief executive to give a person a show cause notice, and invite the person to make submissions, before the chief executive decides the person poses an unacceptable risk of harm to people with disability. | 27<br>28<br>29<br>30<br>31 |

[s 11]

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- 130 Application to cancel exclusion** 1
- (1) A person who holds an exclusion, other than a disqualified person, may apply to the chief executive to cancel the exclusion if— 2
- (a) the application is made more than 5 years after— 3
- (i) the exclusion was issued; and 4
- (ii) if the person has previously applied to cancel the exclusion under this section—the most recent previous application was decided; or 5
- (b) a court decides an appeal, under section 138K, and sets aside a decision that information is investigative information about the person; or 6
- (c) there has been a significant or exceptional change in the person’s circumstances since the exclusion was issued. 7
- Example of a significant or exceptional change in a person’s circumstances—* 8
- a person’s conviction for an offence is quashed 9
- (2) If the exclusion was issued because the person is a disqualified person, the person may apply to the chief executive to cancel the exclusion if the person is no longer a disqualified person. 10
- 131 Form of application** 11
- (1) The application must be— 12
- (a) made in the approved form and in an approved way; and 13
- (b) signed by the person; and 14
- (c) accompanied by the fee prescribed by regulation for the application. 15



- 
- (2) The person may state anything in the application 1  
that the person considers is relevant to the chief 2  
executive's decision, including, for example, a 3  
change in the person's circumstances since the 4  
exclusion was issued. 5

**132 Cancellation on application** 6

- (1) This section applies if a person made an 7  
application under section 130. 8
- (2) The chief executive may cancel the person's 9  
exclusion if the chief executive is satisfied the 10  
person does not pose an unacceptable risk of harm 11  
to people with disability. 12

*Note—* 13

See section 129 in relation to making a decision under 14  
this section. 15

**133 Other cancellation of exclusion** 16

- (1) The chief executive may act under this section 17  
whether or not a person made an application 18  
under section 130. 19
- (2) The chief executive may cancel the person's 20  
exclusion if the chief executive is satisfied the 21  
person does not pose an unacceptable risk of harm 22  
to people with disability and any of the following 23  
apply— 24
- (a) the exclusion was issued because the person 25  
was a disqualified person and the person is 26  
no longer a disqualified person; 27
- (b) the chief executive is satisfied the decision 28  
to issue the exclusion was based on wrong 29  
or incomplete information; 30
- (c) the chief executive becomes aware of 31  
information (*further information*) that— 32

[s 11]

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- (i) was not known to the chief executive when the decision to issue the exclusion was made; and
    - (ii) in the chief executive's opinion, is relevant to whether the person poses a risk of harm to people with disability.
  - (3) A risk assessment of the person conducted before the chief executive makes a decision for a reason mentioned in subsection (2)(b) or (c) must include consideration of the correct and complete information or the further information.
- Note—*
- See section 129 in relation to making a decision under this section.

#### **134 Action after decision to cancel exclusion**

- (1) If the chief executive decides to cancel a person's exclusion under this division, the chief executive must—
  - (a) cancel the exclusion; and
  - (b) give the person a notice about the cancellation.
- (2) The chief executive may decide a disability worker screening application made by the person after the exclusion is cancelled without conducting a risk assessment of the person unless the chief executive is aware of information that—
  - (a) was not known to the chief executive when the decision to cancel the exclusion was made; and
  - (b) is relevant to whether the person poses a risk of harm to people with disability.

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|   |                                 |    |
|---|---------------------------------|----|
| <b>135 Notice of decision to refuse application</b>   | 1                               |    |
| (1) This section applies if—  | 2                               |    |
| (a) a person made an application under section 130; and   | 3<br>4                          |    |
| (b) the chief executive decided to refuse the application.  | 5<br>6                          |    |
| (2) The chief executive must give the person a notice that states—  | 7<br>8                          |    |
| (a) the application has been refused and the person’s exclusion continues in force; and                     | 9<br>10                         |    |
| (b) the reasons for the chief executive’s decision to refuse the application; and                           | 11<br>12                        |    |
| (c) the relevant review and appeal information.   | 13                              |    |
| <br>  |                                 |    |
| <b>Division 8</b>   | <b>Provisions about</b>         | 14 |
|   | <b>obtaining, giving and</b>    | 15 |
|   | <b>dealing with information</b> | 16 |
| <br>  |                                 |    |
| <b>Subdivision 1</b>  | <b>Preliminary</b>              | 17 |
| <br>  |                                 |    |
| <b>136 Meaning of <i>relevant person</i></b>  | 18                              |    |
| (1) For this division, each of the following persons is a <i>relevant person</i> —                          | 19<br>20                        |    |
| (a) a person who holds a clearance;   | 21                              |    |
| (b) a person who has made a disability worker screening application that has not been decided or withdrawn; | 22<br>23<br>24                  |    |
| (c) a person to whom all of the following apply—  | 25<br>26                        |    |

[s 11]

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- (i) the person has purported to make a disability worker screening application; 1  
2  
3
- (ii) the application has not been properly made, including, for example, because the application was not accompanied by the fee prescribed by regulation for the application; 4  
5  
6  
7  
8
- (iii) the application, as made, contains sufficient information for the chief executive to establish the person's identity with certainty; 9  
10  
11  
12
- (d) a person who has made an application under section 130 to cancel the person's exclusion and the application has not been decided or withdrawn; 13  
14  
15  
16
- (e) a person who holds an exclusion if— 17
  - (i) there is an undecided appeal, review or application under section 138J(2), 138L(2), 138ZV or 138ZW relating to the exclusion; or 18  
19  
20  
21
  - (ii) there is an undecided appeal against a decision on an appeal or review under section 138J(2) or 138ZW relating to the exclusion. 22  
23  
24  
25
- (2) Also, a person is a *relevant person* for this division if the chief executive is aware that— 26  
27
  - (a) the person holds an interstate NDIS clearance; or 28  
29
  - (b) the person has made an application under a corresponding law that corresponds to an NDIS worker screening application and an NDIS worker screening unit has asked the chief executive for information about the person in relation to deciding the application. 30  
31  
32  
33  
34  
35  
36

- 
- (3) In this section— 1  
*undecided*, in relation to an appeal, review or 2  
application, means the appeal, review or 3  
application has been started or made but not 4  
decided. 5

**137 Chief executive may disclose information 6  
about relevant persons 7**

- (1) This section applies if the chief executive may ask 8  
an entity for information about a relevant person 9  
under this division. 10
- (2) The chief executive may include information that 11  
is reasonably necessary to identify the relevant 12  
person in the request. 13
- (3) The chief executive may also give information 14  
about the identity of a relevant person to an entity 15  
that is authorised, under this division or another 16  
law, to give information about relevant persons to 17  
the chief executive— 18
- (a) to advise the entity whether or not a 19  
particular person is a relevant person; or 20
- (b) from time to time to advise the entity about 21  
the persons who are relevant persons at a 22  
particular time. 23

**138 Information that need not be given 24**

- (1) This section applies if, under another provision of 25  
this division, an entity is required to give 26  
information to the chief executive and the entity 27  
reasonably believes that giving the information 28  
may do any of the following— 29
- (a) prejudice the investigation of a 30  
contravention or possible contravention of 31  
the law in a particular case; 32

[s 11]

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- (b) enable the existence or identity of a confidential source of information, in relation to the enforcement or administration of the law, to be ascertained; 1  
2  
3  
4
- (c) prejudice the effectiveness of a lawful method or procedure for preventing, detecting, investigating or dealing with a contravention or possible contravention of the law; 5  
6  
7  
8  
9
- (d) prejudice a matter before a court, including, for example— 10  
11
  - (i) a matter or an investigation before the Mental Health Court; and 12  
13
  - (ii) a prosecution; 14
- (e) prejudice a matter before the Mental Health Review Tribunal; 15  
16
- (f) endanger a person’s life or physical safety; 17
- (g) adversely affect a person’s mental health. 18
- (2) Despite the other provision, the entity is not required to— 19  
20
  - (a) give the information to the chief executive; or 21  
22
  - (b) disclose the existence of the information to the chief executive. 23  
24

**Subdivision 2 Obtaining police information and related information from police commissioner** 25  
26  
27  
28

**138A Provision about police commissioner’s obligation to provide information** 29  
30

A requirement under this subdivision for the 31

- 
- police commissioner to give the chief executive  
information about a relevant person applies— 1  
2
- (a) only to information in the commissioner’s  
possession or to which the commissioner  
has access; and 3  
4  
5
- (b) despite the *Youth Justice Act 1992*, part 9. 6

**138B Meaning of *criminal history event*** 7

- (1) Any of the following events that happen in  
relation to a person is a ***criminal history event***— 8  
9
- (a) the person acquires a criminal history; 10
- (b) the person’s criminal history changes; 11
- (c) the police commissioner decides, under  
section 138I, that information about the  
person is investigative information; 12  
13  
14
- (d) the person becomes subject to— 15
- (i) offender reporting obligations; or 16
- (ii) an offender prohibition order; or 17
- (iii) an offender prohibition disqualification  
order; 18  
19
- (e) the person is named as the respondent for an  
application for an offender prohibition  
order; 20  
21  
22
- (f) the person is the subject of an application  
for an offender prohibition disqualification  
order. 23  
24  
25
- (2) For subsection (1)(c), it does not matter when the  
conduct related to the investigative information  
happened or is alleged to have happened. 26  
27  
28

[s 11]

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|   |                                  |
|---|----------------------------------|
| <b>138C Chief executive's request for police information about relevant person</b>  | 1<br>2                           |
| (1) The chief executive may ask the police commissioner for police information about a relevant person.   | 3<br>4<br>5                      |
| (2) The police commissioner must comply with a request under subsection (1) by—   | 6<br>7                           |
| (a) giving the chief executive the police information that exists about the relevant person; or   | 8<br>9<br>10                     |
| (b) telling the chief executive there is no police information about the relevant person.   | 11<br>12                         |
| (3) If there is police information about the relevant person, the chief executive may ask the police commissioner for—  | 13<br>14<br>15                   |
| (a) a brief description of the circumstances of a conviction, charge or investigative information mentioned in the police information; and  | 16<br>17<br>18<br>19             |
| (b) a section 93A transcript relating to an offence mentioned in the police information; and  | 20<br>21<br>22                   |
| (c) the information mentioned in section 138F(1) about an offender prohibition order or offender prohibition disqualification order mentioned in the police information; and  | 23<br>24<br>25<br>26<br>27       |
| (d) the information mentioned in section 138F(2) about an application for an offender prohibition order or offender prohibition disqualification order mentioned in the police information if the order is not, or was not, made. | 28<br>29<br>30<br>31<br>32<br>33 |
| (4) The police commissioner must comply with a request under subsection (3).  | 34<br>35                         |



- 
- (5) If the chief executive no longer needs the information requested— 1  
2
- (a) the chief executive must tell the police commissioner the information is no longer needed; and 3  
4  
5
- (b) the police commissioner’s obligation to comply with the chief executive’s request ends. 6  
7  
8
- 138D Chief executive’s request for domestic violence information about relevant person** 9  
10
- (1) This section applies if the chief executive reasonably believes a domestic violence order may have been made against a relevant person. 11  
12  
13
- (2) The chief executive may ask the police commissioner for domestic violence information about the relevant person. 14  
15  
16
- (3) The police commissioner must comply with a request under subsection (2) by— 17  
18
- (a) giving the chief executive the domestic violence information that exists about the relevant person; or 19  
20  
21
- (b) telling the chief executive there is no domestic violence information about the relevant person. 22  
23  
24
- (4) If there is domestic violence information about the person, the chief executive may ask the police commissioner for a brief description of the circumstances of a domestic violence order mentioned in the domestic violence information. 25  
26  
27  
28  
29
- (5) The police commissioner must comply with a request under subsection (4). 30  
31
- (6) If the chief executive no longer needs the information requested— 32  
33

[s 11]

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- (a) the chief executive must tell the police commissioner the information is no longer needed; and
- (b) the police commissioner's obligation to comply with the chief executive's request ends.

**138E Police commissioner must notify change in police information**

- (1) This section applies if—
  - (a) the police commissioner reasonably suspects a person is a relevant person; and
  - (b) a criminal history event happens in relation to the person.
- (2) The police commissioner must give the chief executive a notice about the criminal history event.
- (3) The notice must state the following information, to the extent the information relates to the criminal history event—
  - (a) the particulars of an offence the relevant person was charged with or convicted of, including the day the person was charged or convicted;
  - (b) a brief description of information that the police commissioner has decided is investigative information about the relevant person;
  - (c) the information mentioned in section 138F(1) about an offender prohibition order or offender prohibition disqualification order to which the relevant person is, has been or becomes subject;
  - (d) the information mentioned in section 138F(2) about an application for an offender

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prohibition order or offender prohibition 1  
disqualification order if the order is not, or 2  
was not, made. 3

**138F Particular information to be given about 4  
orders and applications for orders refused 5**

- (1) For section 138C(3)(c) or 138E(3)(c), the 6  
information about an offender prohibition 7  
or offender prohibition disqualification order is— 8
- (a) details of the order, including its duration; 9  
and 10
- (b) for an offender prohibition order— 11
- (i) a brief description of the conduct that 12  
gave rise to the order; and 13
- (ii) whether the order is or was a temporary 14  
order or final order under the *Child 15  
Protection (Offender Reporting and 16  
Offender Prohibition Order) Act 2004.* 17
- (2) For section 138C(3)(d) or 138E(3)(d), the 18  
information about an application for an offender 19  
prohibition order or offender prohibition 20  
disqualification order, if the order is not or was 21  
not made, is— 22
- (a) the reasons the application was made; and 23
- (b) the reasons the order was not made; and 24
- (c) if the application was for an offender 25  
prohibition order—the reasons given by the 26  
magistrate or court hearing the application 27  
for deciding not to make the order. 28

**138G Person to be notified if investigative 29  
information given 30**

- (1) This section applies if the police commissioner 31  
gives investigative information about a relevant 32

[s 11]

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|   |                      |
|---|----------------------|
| person to the chief executive under section 138C or 138E.   | 1<br>2               |
| (2) The police commissioner must give the relevant person a notice that states—   | 3<br>4               |
| (a) the police commissioner has decided that information about the person is investigative information; and   | 5<br>6<br>7          |
| (b) the investigative information has been given to the chief executive.  | 8<br>9               |
| <b>138H Use of information given to police commissioner</b>   | 10<br>11             |
| (1) Information given to the police commissioner under this division—   | 12<br>13             |
| (a) must not be accessed or disclosed for any purpose other than—   | 14<br>15             |
| (i) a purpose under this part; or   | 16                   |
| (ii) a purpose relevant to law enforcement; and   | 17<br>18             |
| (b) must not be used for any purpose other than for a purpose under this part.  | 19<br>20             |
| (2) However, subsection (1) does not apply to information obtained by the police commissioner before the chief executive gave the information to the police commissioner under this division. | 21<br>22<br>23<br>24 |
| <b>Subdivision 3 Provisions about investigative information</b>   | 25<br>26             |
| <b>138I Police commissioner may decide information is investigative information</b>   | 27<br>28             |
| (1) The police commissioner may decide that information related to the conduct of a person (the   | 29<br>30             |

- 
- investigated person*) is *investigative information* 1  
about the investigated person if satisfied— 2
- (a) there is or was evidence that, at the time of 3  
the investigated person’s conduct, it 4  
constituted a schedule 6 or 7 offence (the 5  
*alleged offence*) committed by the 6  
investigated person against another person 7  
(the *complainant*); and 8
- (b) the matters stated in subsection (2) apply in 9  
relation to the alleged offence. 10
- (2) The matters are— 11
- (a) the police investigated the alleged offence; 12  
and 13
- (b) the investigated person was formally 14  
notified about the investigation, including— 15
- (i) by participating, or being asked to 16  
participate, in an interview about the 17  
alleged offence; or 18
- (ii) by otherwise being given an 19  
opportunity to answer allegations about 20  
the alleged offence; and 21
- (c) there was sufficient evidence to establish 22  
each element of the alleged offence; and 23
- (d) the investigated person was not charged 24  
because— 25
- (i) the complainant died before the charge 26  
was brought; or 27
- (ii) the complainant was unwilling to 28  
proceed; or 29
- (iii) an adult, who was the complainant’s 30  
parent or guardian, decided the matter 31  
should not proceed in the interests of 32  
the complainant. 33
- (3) Evidence of conduct includes information from a 34

[s 11]

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third party if the complainant did not make a  
formal complaint at or about the time of the  
investigation.

- (4) Despite the *Police Service Administration Act 1990*, section 4.10, the police commissioner may not delegate the police commissioner's powers under subsection (1) other than to a police officer of at least the rank of superintendent.

### **138J Appealing investigative information decision**

- (1) This section applies if—
- (a) the police commissioner decides that information is investigative information about a person; and
  - (b) the investigative information is given to the chief executive under subdivision 2; and
  - (c) after the investigative information is given to the chief executive, the chief executive issues the person an exclusion, including because the chief executive cancels the person's clearance.
- (2) The person (the *appellant*) may appeal to a Magistrates Court about the decision (the *investigative information decision*) that information, given to the chief executive as investigative information about the appellant, is investigative information.
- (3) However, an appeal under subsection (2) may only be made within 28 days after the appellant is given notice that the exclusion has been issued.
- (4) The chief executive and police commissioner must be given a copy of the notice of appeal.
- (5) The tribunal does not have jurisdiction to review a decision of the police commissioner that—

- 
- (a) information is investigative information about a person; or
  - (b) information that is investigative information about a person may be given to the chief executive.

**138K Court to decide matter afresh**

- (1) A Magistrates Court hearing an appeal about an investigative information decision under section 138J must decide afresh whether information given to the chief executive is investigative information about the appellant.
- (2) The appellant must not ask or call on the complainant for the investigative information to give evidence in person before the court.
- (3) Subsection (2) does not prevent documentary evidence being tendered and received in evidence by the court.
- (4) After hearing the appeal, the court may confirm or set aside the investigative information decision.
- (5) For subsection (4), the court must consider the matters the police commissioner was required to consider under section 138I when making the investigative information decision.
- (6) The clerk of the court must give the appellant notice of the court's decision on the appeal.
- (7) The notice must state—
  - (a) that, if the chief executive's decision to issue the appellant an exclusion is a reviewable decision, the appellant may apply for a review of the decision subject to section 138ZT(2); and
  - (b) how, and the period within which, the person may apply for the review.

[s 11]

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- (8) In this section— 1  
*complainant*, for investigative information about 2  
the appellant, means the complainant under 3  
section 138I for the alleged offence under that 4  
section that was committed by the appellant who 5  
is the subject of the investigative information. 6

**138L Consequence of decision on appeal** 7

- (1) This section applies if a Magistrates Court decides 8  
an appeal about an investigative information 9  
decision under section 138K. 10
- (2) If the court decides to set aside the investigative 11  
information decision, the appellant may apply to 12  
the chief executive under section 130(1)(b) to 13  
cancel the appellant’s exclusion. 14
- (3) If the court confirms the investigative information 15  
decision, the appellant may apply under section 16  
138ZT for an internal review of the decision to 17  
issue the exclusion to the appellant, subject to 18  
section 138ZT(2). 19
- (4) An application mentioned in subsection (3)— 20
- (a) must be made within 28 days after the 21  
appellant receives the notice under section 22  
138K(6); and 23
- (b) may be made even if the appellant applied 24  
for an internal review of the decision to 25  
issue the exclusion to the appellant before 26  
the court decided the appeal. 27

**Subdivision 4 Obtaining police 28  
information from other 29  
State entities 30**



- 
- 138M Obtaining information from director of public prosecutions** 1  
2
- (1) If the chief executive is aware a relevant person 3  
has been charged with or convicted of an offence, 4  
the chief executive may, by notice, ask the 5  
director of public prosecutions for the following 6  
information about the relevant person— 7
- (a) a written statement briefly describing the 8  
circumstances of a charge or conviction for 9  
the offence; 10
- (b) a copy or written summary of evidentiary 11  
material about the offence; 12
- (c) if a charge for the offence was not 13  
proceeded with—a written summary of the 14  
reasons the charge was not proceeded with. 15
- (2) The director of public prosecutions may comply 16  
with the chief executive’s request if the director 17  
reasonably believes the information may help the 18  
chief executive to perform the chief executive’s 19  
screening functions in relation to the person. 20
- (3) However, the director of public prosecutions must 21  
not give the chief executive a copy or written 22  
summary of evidentiary material about the 23  
offence that relates only to a person other than the 24  
relevant person. 25
- Example—* 26
- a report by an expert about a person other than the 27  
relevant person 28
- (4) The director of public prosecutions is authorised 29  
to give information, or a document containing 30  
information, under this section despite any other 31  
Act or law, including a law imposing an 32  
obligation to maintain confidentiality about the 33  
information. 34

[s 11]

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|  |                     |
|--|---------------------|
| <i>Note—</i>   | 1                   |
| See section 227 for restrictions on disclosing or giving access to information or documents obtained under this part.  | 2<br>3<br>4         |
| (5) Without limiting subsection (4), this section applies despite the <i>Director of Public Prosecutions Act 1984</i> , section 24A.   | 5<br>6<br>7         |
| (6) In this section—   | 8                   |
| <i>evidentiary material</i> , about an offence, means material compiled in the course of the investigation or prosecution of the offence, including, for example, the following— | 9<br>10<br>11<br>12 |
| (a) a summary of the circumstances of the alleged offence prepared by a police officer;  | 13<br>14            |
| <i>Examples—</i>   | 15                  |
| bench charge sheet, QP9  | 16                  |
| (b) a witness statement;   | 17                  |
| (c) an indictment;   | 18                  |
| (d) a record of an interview or a transcript of a record of an interview, including a section 93A transcript;  | 19<br>20<br>21      |
| (e) a report by an expert about the person alleged to have committed the offence.  | 22<br>23            |
| <b>138N Obtaining information from chief executive (corrective services)</b>   | 24<br>25            |
| (1) The chief executive (corrective services) must give the chief executive a notice about each person who is subject to a sexual offender order.                                | 26<br>27<br>28      |
| (2) The notice must state—   | 29                  |
| (a) the person is subject to a sexual offender order; and  | 30<br>31            |

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(b) any other information the chief executive (corrective services) reasonably believes may help the chief executive to perform the chief executive's screening functions.

(3) The chief executive (corrective services) is authorised to give information under this section despite any other Act or law, including a law imposing an obligation to maintain confidentiality about the information.

*Note—*

See section 227 for restrictions on disclosing or giving access to information or documents obtained under this part.

(4) In this section—

*chief executive (corrective services)* means the chief executive of the department in which the *Corrective Services Act 2006* is administered.

## **Subdivision 5 Obtaining disciplinary and other information from particular entities**

### **1380 Meaning of *disciplinary information* and *disciplinary action***

(1) *Disciplinary information* about a person is information about any disciplinary action taken against the person.

(2) *Disciplinary action*, in relation to a person, means—

(a) for a person who holds, or has held, a foster carer certificate, kinship carer certificate or provisional certificate under the *Child Protection Act 1999*—the person's certificate was amended, suspended or cancelled under that Act; or

[s 11]

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- (b) for a person who holds, or has held, a provider approval, service approval or supervisor certificate under the *Education and Care Services Act 2013* or the Education and Care Services National Law (Queensland)—the person’s approval or certificate was amended, suspended or cancelled under that Act or Law; or
- (c) the person was given a prohibition notice under—
  - (i) the *Education and Care Services Act 2013*; or
  - (ii) the Education and Care Services National Law (Queensland); or
  - (iii) the repealed *Child Care Act 2002*; or
- (d) for a person who held a licence to conduct a child care service, including a provisional licence, under the repealed *Child Care Act 2002*—the person’s licence was amended, suspended or revoked under that Act; or
- (e) for a person who is, or has been, a registered teacher or holds, or has held, a permission to teach under the *Education (Queensland College of Teachers) Act 2005*—
  - (i) the person’s registration or permission to teach was suspended under that Act; or
  - (ii) the person’s registration was cancelled under that Act; or
  - (iii) a practice and conduct body made a decision about practice and conduct proceedings against the teacher under that Act; or

- 
- (f) for a person who was a registered teacher under the repealed *Education (Teacher Registration) Act 1988*—
- (i) the person’s registration was suspended or cancelled under that Act; or
- (ii) the Board of Teacher Registration under that Act made an order about the person after inquiring into a matter concerning the person’s conduct under that Act.
- (3) In this section—
- amended***, in relation to an approval, certificate or licence held by a person, means the approval, certificate or licence was amended other than—
- (a) at the person’s request; or
- (b) with the person’s agreement; or
- (c) to extend the term of the approval, certificate or licence; or
- (d) in another way that is consistent with, or not contrary to, the person’s interests.

**138P Request for information about disciplinary action against relevant person**

- (1) The chief executive may, by notice, ask any of the following entities (each a *State entity*) for disciplinary information about a relevant person—
- (a) the chief executive (child safety) in relation to disciplinary action mentioned in section 138O(2)(a);
- (b) the chief executive (education and care) in relation to disciplinary action mentioned in section 138O(2)(b), (c) or (d);

[s 11]

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- (c) the college of teachers in relation to disciplinary action mentioned in section 138O(2)(e) or (f). 1  
2  
3
- (2) In this section— 4  
*chief executive (education and care)* means— 5
- (a) the chief executive of the department in which the *Education and Care Services Act 2013* is administered; or 6  
7  
8
- (b) the children’s services regulator under the Education and Care Services National Law (Queensland). 9  
10  
11
- college of teachers* means the Queensland College of Teachers under the *Education (Queensland College of Teachers) Act 2005*. 12  
13  
14
- 138Q State entity must comply with request for disciplinary information** 15  
16
- (1) This section applies if a State entity is given a request about a relevant person under section 138P. 17  
18  
19
- (2) The State entity must give the requested disciplinary information about the relevant person to the chief executive if the State entity reasonably believes the information may help the chief executive to perform the chief executive’s screening functions. 20  
21  
22  
23  
24  
25
- (3) Disciplinary information given under subsection (2) must include the following information— 26  
27
- (a) the disciplinary action taken; 28
- (b) when the conduct that constituted a ground for the disciplinary action happened; 29  
30
- (c) the nature of the conduct that constituted a ground for the disciplinary action; 31  
32

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- (d) other information about the disciplinary action the State entity reasonably believes may help the chief executive to perform the chief executive's screening functions. 1  
2  
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4
- (4) Disciplinary information given under subsection (2) must not include information that identifies, or is likely to identify, a particular child. 5  
6  
7
- 138R Request for other information about relevant person from prescribed entities** 8  
9
- (1) This section applies if the chief executive reasonably believes a prescribed entity has information, other than disciplinary information, that is relevant to whether a relevant person poses a risk of harm to people with disability. 10  
11  
12  
13  
14
- (2) The chief executive may, by notice, ask the prescribed entity for information about the relevant person. 15  
16  
17
- (3) The prescribed entity may give the information about the relevant person to the chief executive if the entity reasonably believes the information may help the chief executive to perform the chief executive's screening functions. 18  
19  
20  
21  
22
- (4) This section applies subject to the *Child Protection Act 1999*, section 186. 23  
24
- (5) In this section— 25
- prescribed entity*** means— 26
- (a) the chief executive (child safety); or 27
- (b) the chief executive of the department in which the *Community Services Act 2007* is administered; or 28  
29  
30
- (c) another entity that— 31
- (i) is prescribed by regulation for this section; and 32  
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- (ii) has entered into an arrangement with the chief executive to give the chief executive information under this section. 1  
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**138S State entity must update disciplinary information** 5  
6

- (1) This section applies if a State entity gives disciplinary information about a relevant person to the chief executive under this subdivision and the information changes. 7  
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9  
10
- (2) The State entity must give the chief executive a notice about the change in the information. 11  
12

**Subdivision 6 Obtaining information about person's mental health** 13  
14  
15

**138T Application of subdivision** 16

- (1) This subdivision applies if— 17
  - (a) the chief executive is deciding whether a relevant person poses an unacceptable risk of harm to people with disability; and 18  
19  
20
  - (b) the relevant person was— 21
    - (i) charged with a disqualifying offence alleged to have been committed when the person was an adult; or 22  
23  
24
    - (ii) charged with or convicted of a serious offence committed, or alleged to have been committed, when the person was an adult; or 25  
26  
27  
28



- 
- (iii) charged with or convicted of an offence that relates to or involves a person with disability; and
- (c) the chief executive reasonably believes it is necessary to consider the relevant person's mental health to make the decision mentioned in paragraph (a).
- (2) The chief executive may form the reasonable belief mentioned in subsection (1)(c) only if—
- (a) for a charge or conviction mentioned in subsection (1)(b)—
- (i) the matter of the relevant person's mental state relating to the offence has been referred to the Mental Health Court or an entity of another State with similar functions to that court; or
- (ii) a court has ordered the relevant person to undertake psychiatric treatment; or
- (iii) a court has been given a report about the relevant person's mental health prepared by a registered health practitioner; or
- (b) the chief executive has, under this part, been given a report about the relevant person's mental health prepared by a registered health practitioner.
- 138U Request to relevant person for consent to preparation of report about person's mental health**
- (1) The chief executive may, by notice, ask the relevant person—
- (a) to consent to a registered health practitioner nominated by the chief executive preparing

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- |     |   |                            |
|-----|---|----------------------------|
|     | a report about the relevant person's mental health; and   | 1<br>2                     |
| (b) | to be examined by the health practitioner to enable the health practitioner to prepare the report; and  | 3<br>4<br>5                |
| (c) | to consent to the health practitioner giving the report to the chief executive.   | 6<br>7                     |
| (2) | The notice must state the following—  | 8                          |
| (a) | the reasons for the chief executive's request;  | 9                          |
| (b) | the name and qualifications of the registered health practitioner nominated by the chief executive to examine the relevant person;  | 10<br>11<br>12             |
| (c) | when and where the examination is to be conducted;  | 13<br>14                   |
| (d) | that the health practitioner may require the relevant person to undergo further examinations;   | 15<br>16<br>17             |
| (e) | that the chief executive must bear the cost of the examination (including any further examinations) and preparation of the report;  | 18<br>19<br>20             |
| (f) | that the chief executive may consider the report about the relevant person's mental health when deciding whether the person poses an unacceptable risk of harm to people with disability; | 21<br>22<br>23<br>24<br>25 |
| (g) | that, if the relevant person has made a disability worker screening application, the person may ask the chief executive to withdraw the application under section 75;                     | 26<br>27<br>28<br>29       |
| (h) | that, if the relevant person does not give the consent, or undergo the examination, the chief executive may—  | 30<br>31<br>32             |
| (i) | if the person has made a disability worker screening application—   | 33<br>34                   |

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|  |                                  |
|--|----------------------------------|
| withdraw the application under section 79; or  | 1<br>2                           |
| (ii) decide whether the person poses an unacceptable risk of harm to people with disability without a report about the person's mental health.   | 3<br>4<br>5<br>6                 |
| (3) The chief executive must be satisfied the registered health practitioner nominated is appropriately qualified to conduct the examination.  | 7<br>8<br>9<br>10                |
| <b>138V Obtaining report about person's mental health from registered health practitioner</b>  | 11<br>12                         |
| (1) This section applies if the relevant person gives the consent mentioned in section 138U(1)(c) to the registered health practitioner giving the report about the person's mental health to the chief executive.   | 13<br>14<br>15<br>16<br>17       |
| (2) The chief executive must give a copy of the relevant person's consent to the registered health practitioner.   | 18<br>19<br>20                   |
| (3) The registered health practitioner may give the report to the chief executive.   | 21<br>22                         |
| (4) The registered health practitioner is authorised to give the report under this section despite any other Act or law, including a law imposing an obligation to maintain confidentiality about the examination.   | 23<br>24<br>25<br>26<br>27       |
| <i>Notes—</i>  | 28                               |
| 1 See section 138ZA in relation to the registered health practitioner being given information about the relevant person obtained by the chief executive from the Mental Health Court or Mental Health Review Tribunal, and restrictions on the use of the information. | 29<br>30<br>31<br>32<br>33<br>34 |

[s 11]

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- 2 See section 227 for restrictions on disclosing or 1  
giving access to information or documents obtained 2  
under this part. 3

**138W Chief executive to bear medical costs** 4

The chief executive must bear the costs for the 5  
following amounts charged by the registered 6  
health practitioner for preparing a report about the 7  
relevant person's mental health under this 8  
subdivision— 9

- (a) the amount charged for examining the 10  
person to enable the health practitioner to 11  
prepare the report; 12
- (b) the amount charged for preparing the report. 13

**138X Request for consent to obtain information 14  
from Mental Health Court or Mental Health 15  
Review Tribunal 16**

- (1) This section applies if— 17
- (a) the relevant person has been charged with, 18  
but not convicted of— 19
- (i) a disqualifying offence or serious 20  
offence alleged to have been 21  
committed when the person was an 22  
adult; or 23
- (ii) an offence that relates to or involves a 24  
person with disability; and 25
- (b) either— 26
- (i) the matter of the person's mental state 27  
relating to the offence was referred to 28  
the Mental Health Court; or 29
- (ii) the Mental Health Review Tribunal 30  
reviewed a forensic order to which the 31  
person is subject, or the person's fitness 32

- 
- for trial, under the *Mental Health Act* 1  
*2016*, chapter 12, part 3, 4 or 6. 2
- (2) The chief executive may, by notice, ask the 3  
relevant person to consent to the chief executive 4  
obtaining information about the person from the 5  
Mental Health Court or Mental Health Review 6  
Tribunal— 7
- (a) for the chief executive to use when deciding 8  
whether the person poses an unacceptable 9  
risk of harm to people with disability; or 10
- (b) if the chief executive asked the person, 11  
under section 138U, to consent to a 12  
registered health practitioner preparing a 13  
report about the person’s mental health—to 14  
be given to the health practitioner to use 15  
when preparing the report. 16
- (3) The notice must state the following— 17
- (a) the reasons for the chief executive’s request; 18
- (b) the information that the Mental Health 19  
Court or Mental Health Review Tribunal 20  
may give the chief executive under section 21  
138Y or 138Z; 22
- (c) that the chief executive may consider the 23  
report about the relevant person’s mental 24  
health when deciding whether the person 25  
poses an unacceptable risk of harm to 26  
people with disability; 27
- (d) that, if the relevant person has made a 28  
disability worker screening application, the 29  
person may ask the chief executive to 30  
withdraw the application under section 75; 31
- (e) that, if the relevant person does not give the 32  
consent, the chief executive may— 33

[s 11]

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- (i) if the person made a disability worker screening application—withdraw the application under section 79; or
- (ii) decide whether the person poses an unacceptable risk of harm to people with disability without obtaining the information.

**138Y Obtaining information from Mental Health Court**

- (1) The chief executive may, by notice, ask the Mental Health Court (the *court*) for information about the relevant person if—
  - (a) the matter of the person’s mental state relating to an offence mentioned in section 138X(1)(a) was referred to the court (the *referred matter*); and
  - (b) the person gives the consent mentioned in section 138X(2) for the chief executive to obtain information about the person from the court.
- (2) The chief executive must give a copy of the relevant person’s consent to the court.
- (3) If the relevant person’s consent is for the chief executive to use the information when deciding whether the person poses an unacceptable risk of harm to people with disability, the court may comply with the request if the court considers the information may help the chief executive make the decision.
- (4) If the relevant person’s consent is for the information to be given to the registered health practitioner preparing a report about the person’s mental health, the court must comply with the chief executive’s request.

- 
- (5) The court complies with the chief executive's request by giving the chief executive the following information—
- (a) the court's decision about the referred matter and reasons for the decision;
  - (b) a copy or written summary of any expert's report about the relevant person received in evidence by the court, including, for example, a medical report, psychiatrist's report or expert report that accompanied the reference of the matter to the court;
  - (c) transcripts of a hearing conducted for the referred matter if the court directed the transcript may be given to a party to the hearing or another person.
- (6) A decision of the court not to give an expert report about the relevant person under this section does not prevent the chief executive applying for leave of the court under the *Mental Health Act 2016*, section 160(2) in relation to the report.

### **138Z Obtaining information from Mental Health Review Tribunal**

- (1) The chief executive may, by notice, ask the Mental Health Review Tribunal (the *tribunal*) for information about the relevant person if—
- (a) the tribunal reviewed a forensic order to which the person is subject, or the person's fitness for trial, under the *Mental Health Act 2016*, chapter 12, part 3, 4 or 6; and
  - (b) the person gives the consent mentioned in section 138X(2) for the chief executive to obtain information about the person from the tribunal.
- (2) The chief executive must give a copy of the

[s 11]

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- relevant person’s consent to the tribunal. 1
- (3) If the relevant person’s consent is for the chief 2  
executive to use the information when deciding 3  
whether the person poses an unacceptable risk of 4  
harm to people with disability, the tribunal may 5  
comply with the request if the tribunal considers 6  
the information may help the chief executive 7  
make the decision. 8
- (4) If the relevant person’s consent is for the 9  
information to be given to the registered health 10  
practitioner preparing a report about the person’s 11  
mental health, the tribunal must comply with the 12  
chief executive’s request. 13
- (5) The tribunal complies with the request by giving 14  
the chief executive the following information— 15
- (a) the tribunal’s decision on the review and 16  
reasons for the decision; 17
- (b) a copy or written summary of an expert’s 18  
report about the relevant person received by 19  
the tribunal in the proceeding for the review, 20  
including, for example, a report about an 21  
examination of the person under the *Mental 22  
Health Act 2016*, section 454; 23
- (c) transcripts of any hearing conducted for the 24  
review that the tribunal has directed may be 25  
given to a party to the hearing or another 26  
person. 27
- 138ZA Chief executive must give information to 28  
registered health practitioner 29**
- (1) This section applies if— 30
- (a) the chief executive is given information 31  
about the relevant person under section 32  
138Y or 138Z; and 33



- 
- (b) the person consented to the information being given to the registered health practitioner preparing a report about the person's mental health. 1  
2  
3  
4
- (2) The chief executive must give the information to the registered health practitioner as soon as practicable after receiving the information. 5  
6  
7
- (3) The registered health practitioner must not— 8
- (a) make a record of the information; or 9
- (b) disclose the information to anyone; or 10
- (c) give anyone access to the information; or 11
- (d) include any details of the information in a report about the relevant person's mental health prepared under this subdivision. 12  
13  
14
- Maximum penalty for subsection (3)—100 penalty units or 2 years imprisonment. 15  
16
- 138ZB Information that cannot be disclosed to relevant person under confidentiality order** 17  
18
- (1) This section applies if information given to the chief executive under section 138Y or 138Z includes information (*restricted information*) that cannot be disclosed to the relevant person under a confidentiality order under the *Mental Health Act 2016*, section 696 or 722. 19  
20  
21  
22  
23  
24
- (2) If section 138ZA applies to the restricted information, the chief executive— 25  
26
- (a) must give the information to the registered health practitioner under that section; and 27  
28
- (b) must not keep the information, or a record or copy of the information, after giving the information to the health practitioner. 29  
30  
31
- (3) Otherwise, the chief executive must not use the restricted information for any purpose. 32  
33

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| <b>138ZC Further restrictions on chief executive's use of information</b>  | 1<br>2                           |
| (1) This section applies if the chief executive—   | 3                                |
| (a) is given information, other than restricted information under section 138ZB(1), about the relevant person under section 138Y or 138Z; and  | 4<br>5<br>6<br>7                 |
| (b) is deciding whether the person poses an unacceptable risk of harm to people with disability.   | 8<br>9<br>10                     |
| (2) The chief executive may use the information to make the decision only if the relevant person consented to the chief executive using the information to make the decision.  | 11<br>12<br>13<br>14             |
| <br>   |                                  |
| <b>138ZD Giving information authorised despite other laws</b>  | 15<br>16                         |
| (1) The Mental Health Court and Mental Health Review Tribunal are authorised to give information to the chief executive under section 138Y or 138Z despite any other Act or law, including a law imposing an obligation to maintain confidentiality about the information. | 17<br>18<br>19<br>20<br>21<br>22 |
| <i>Note—</i>   | 23                               |
| See section 227 for restrictions on disclosing or giving access to information or documents obtained under this part.  | 24<br>25<br>26                   |
| (2) Without limiting subsection (1), the information may be given—   | 27<br>28                         |
| (a) even if it cannot be disclosed to the relevant person under a confidentiality order under the <i>Mental Health Act 2016</i> , section 696 or 722; and  | 29<br>30<br>31<br>32             |

- 
- (b) if the information is an expert’s report— 1  
despite the *Mental Health Act 2016*, section 2  
160. 3

**138ZE Information that must not be given** 4

Information or documents given by the Mental 5  
Health Court under section 138Y or the Mental 6  
Health Review Tribunal under section 138Z must 7  
not include— 8

- (a) any material (or any record or copy of the 9  
material) given to the court or tribunal under 10  
the *Mental Health Act 2016*, section 155, 11  
163 or 742, or how the material was taken 12  
into account; or 13
- (b) the reasons of the court or tribunal for taking 14  
material mentioned in paragraph (a) into 15  
account or not taking the material into 16  
account; or 17
- (c) the content of an expert report about a 18  
person other than the relevant person; or 19
- (d) information about a person, other than the 20  
relevant person, that the court or tribunal 21  
considers is not relevant to the chief 22  
executive deciding whether the relevant 23  
person poses a risk of harm to people with 24  
disability. 25

**Subdivision 7 Giving information to other 26  
worker screening units 27  
and NDIS commission 28**

**138ZF Application of subdivision** 29

This subdivision applies to information about a 30  
person— 31

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- (a) the chief executive was given, or given access to, under this part; or 1  
2
- (b) in the chief executive's possession in relation to the performance of the chief executive's screening functions. 3  
4  
5

**138ZG Giving information to chief executive (working with children)** 6  
7

- (1) The chief executive may give information about a person to the chief executive (working with children) if the chief executive reasonably believes the information is relevant to the functions of the chief executive (working with children) under the Working with Children Act. 8  
9  
10  
11  
12  
13
- (2) Without limiting subsection (1), the information that may be given includes— 14  
15
  - (a) information about a disability worker screening application made by a person; and 16  
17
  - (b) information about a clearance, interstate NDIS clearance, exclusion or interstate NDIS exclusion held by a person; and 18  
19  
20
  - (c) police information about a person, including investigative information; and 21  
22
  - (d) disciplinary information or NDIS disciplinary or misconduct information about a person; and 23  
24  
25
  - (e) information about a person's mental health. 26

**138ZH Giving information to NDIS worker screening unit or working with children screening unit** 27  
28  
29

- (1) This section applies if— 30
  - (a) the chief executive is aware a person holds— 31  
32

- 
- (i) an interstate NDIS clearance issued by an NDIS worker screening unit under a corresponding law; or
- (ii) an interstate working with children authority issued by a working with children screening unit under a corresponding WWC law; or
- (b) an NDIS worker screening unit or working with children screening unit has asked the chief executive for information about a person in relation to deciding an application made by the person under a corresponding law or corresponding WWC law.
- (2) If the police commissioner gives the chief executive information about the person under subdivision 2, the chief executive may give the information to the NDIS worker screening unit or working with children screening unit.
- (3) The chief executive may also give the NDIS worker screening unit or working with children screening unit other information about the person if the chief executive reasonably believes the information is relevant to the functions of the screening unit under the corresponding law or corresponding WWC law.
- (4) However, the chief executive must not give the NDIS worker screening unit or working with children screening unit a section 93A transcript, or information contained in a section 93A transcript.
- (5) In this section—
- corresponding WWC law*** means a law of another State that substantially corresponds to the Working with Children Act.
- interstate working with children authority*** means an authority, however called, issued under a

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corresponding WWC law that corresponds to a 1  
working with children authority under the 2  
Working with Children Act. 3

*working with children screening unit* means the 4  
entity responsible, under a corresponding WWC 5  
law, for issuing interstate working with children 6  
authorities. 7

**138ZI Giving information to NDIS commission** 8

- (1) The chief executive may give information about a 9  
person to the NDIS commission— 10
- (a) under an arrangement between the chief 11  
executive and the NDIS commission, for the 12  
purpose of the information— 13
- (i) being included in the NDIS worker 14  
screening database; or 15
- (ii) being communicated to the person, or a 16  
notifiable person for the person, by the 17  
NDIS commission, including, for 18  
example, electronically through the 19  
NDIS worker screening database; or 20
- (b) if the chief executive reasonably believes the 21  
information is otherwise relevant to the 22  
functions of the NDIS commission. 23
- (2) Without limiting subsection (1), the information 24  
may include— 25
- (a) information about an NDIS worker 26  
screening application made by a person; and 27
- (b) information about an NDIS clearance issued 28  
to a person, including the suspension or 29  
cancellation of the clearance; and 30
- (c) information about an NDIS exclusion issued 31  
to a person, including the cancellation of the 32  
exclusion; and 33

- 
- (d) information about a notice given to a person that relates to an NDIS worker screening application made by the person or an NDIS clearance or NDIS exclusion issued to the person. 1  
2  
3  
4  
5
- (3) For subsection (1)(a), information is given to the NDIS commission if the information is entered into, or uploaded to, the NDIS worker screening database. 6  
7  
8  
9

**Subdivision 8 Giving information about person engaged in State disability work to particular entities** 10  
11  
12  
13

**138ZJ Authorised entities for person** 14

Each of the following is an *authorised entity* for a person— 15  
16

- (a) a funded service provider (the person's *engaging provider*) if— 17  
18
- (i) the service provider has notified the chief executive under this Act that the service provider engages, or proposes to engage, the person to carry out State disability work; and 19  
20  
21  
22  
23
- (ii) neither the service provider nor the person has notified the chief executive otherwise; 24  
25  
26
- (b) another person the chief executive accepts is an authorised representative of the person's engaging provider; 27  
28  
29
- (c) another person who is a notifiable person for the person; 30  
31

[s 11]

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- (d) an entity to whom the chief executive is required to, or may, give a notice about the person under this Act that relates to—
  - (i) a State disability worker screening application made by the person; or
  - (ii) a State clearance or State exclusion issued to the person.

**138ZK Chief executive may give authorised entities particular information**

- (1) The chief executive may give an authorised entity for a person information about—
  - (a) a State disability worker screening application made by the person; or
  - (b) a State clearance or State exclusion issued to the person; or
  - (c) a notice about the person given, or required to be given, to the authorised entity under this Act that relates to—
    - (i) a State worker screening check application made by the person; or
    - (ii) a State clearance or State exclusion held by the person.
- (2) The chief executive may give the information under subsection (1) by allowing the authorised entity to access the information electronically.

**138ZL Use of information obtained under section 138ZK about person**

- (1) This section applies to a person who is given, or accesses, information about a person under section 138ZK.
- (2) The person must not use the information, or



- 
- disclose or give access to the information to anyone else, unless the use, disclosure or giving of access is allowed under subsection (3).  
Maximum penalty—100 penalty units.
- (3) The person may use the information, or disclose or give access to the information to another person, if the use, disclosure or giving of access—
- (a) is to identify, assess or monitor a risk, or potential risk, of harm to a person or people with disability in relation to the person to whom the information relates carrying out disability work; or
  - (b) is to establish whether or not the person to whom the information relates—
    - (i) has made a State disability worker screening application; or
    - (ii) has been issued a State clearance or State exclusion; or
  - (c) is to comply with an obligation under this Act; or
  - (d) happens with the consent of the person to whom the information relates; or
  - (e) is required to lessen or prevent a serious threat to the life, health, safety or welfare of an individual, or the health, safety or welfare of the public; or
  - (f) is required by a law enforcement agency to prevent, detect, investigate, prosecute or punish an offence; or
  - (g) is required for a proceeding in a court or a tribunal; or
  - (h) is authorised under a regulation or another law.
- (4) In this section—

[s 11]

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- law enforcement agency* means— 1
- (a) an entity mentioned in the *Information Privacy Act 2009*, schedule 5, definition *law enforcement agency*, paragraph (b); or 2  
3
  - (b) an enforcement body within the meaning of 5  
the *Privacy Act 1988* (Cwlth). 6

## **Subdivision 9 Other provisions** 7

### **138ZM Chief executive may advise whether clearance or interstate NDIS clearance is in force** 8 9 10

- (1) This section applies if a person (the *requester*)— 11
  - (a) asks the chief executive whether, when the 12  
request is made, a clearance or interstate 13  
NDIS clearance held by another person is in 14  
force; and 15
  - (b) in making the request, gives the chief 16  
executive— 17
    - (i) the other person's name in which the 18  
person's clearance is issued; and 19
    - (ii) the number of the other person's 20  
clearance; and 21
  - (c) makes the request in the approved form and 22  
in an approved way. 23
- (2) The chief executive may tell the requester 24  
whether or not the other person's clearance or 25  
interstate NDIS clearance is in force at the time. 26

### **138ZN Arrangements with chief executive (working with children) about asking for and giving information** 27 28 29

- (1) The chief executive must enter into a written 30

- 
- arrangement with the chief executive (working with children) about— 1  
2
- (a) asking the chief executive (working with children) for information, or giving the chief executive (working with children) information, under this part or the Working with Children Act; and 3  
4  
5  
6  
7
- (b) the chief executive (working with children) asking the chief executive, or giving the chief executive information, under this part or the Working with Children Act. 8  
9  
10  
11
- (2) Without limiting subsection (1), the arrangement may provide— 12  
13
- (a) for information to be asked for and given electronically, including on a daily basis; or 14  
15
- (b) for information to be given by way of providing electronic access to the information. 16  
17  
18
- (3) If the arrangement provides for information to be given or accessed electronically and, under this Act or another law, there is a limitation on who may be given the information or access to the information or the purposes for which the information may be used, the arrangement must provide for the limitation. 19  
20  
21  
22  
23  
24  
25
- 138ZO Arrangements with police commissioner or other entity about asking for and giving information** 26  
27  
28
- (1) The chief executive may enter into a written arrangement with the police commissioner or another entity about asking for, or giving, information under this part. 29  
30  
31  
32
- (2) Without limiting subsection (1), the arrangement may provide— 33  
34

[s 11]

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- (a) for information to be asked for and given electronically, including on a daily basis; or
- (b) for information to be given by way of providing electronic access to the information.
- (3) If the arrangement provides for information to be given or accessed electronically and, under this Act or another law, there is a limitation on who may be given the information or access to the information or the purposes for which the information may be used, the arrangement must provide for the limitation.
- 138ZP Guidelines for dealing with information**
- (1) The chief executive must make guidelines, consistent with this Act, for dealing with information the chief executive obtains under this part.
- (2) The purpose of the guidelines is to ensure that, in the performance of the chief executive's screening functions—
- (a) natural justice is afforded to persons about whom information is obtained; and
- (b) only relevant information is used to make decisions under this part; and
- (c) decisions under this part, based on the information, are made consistently.
- (3) The chief executive must give a copy of the guidelines to a person, free of charge, on request.
- 138ZQ Chief executive must give person's current address to police commissioner**
- (1) If the police commissioner is required to give a notice to a person under this part, the police

- 
- commissioner may, by notice— 1
- (a) state the person’s address or addresses 2  
known to the police commissioner; and 3
- (b) ask whether the chief executive knows other 4  
information about the person’s address. 5
- (2) The chief executive must give the police 6  
commissioner other information about the 7  
person’s address known to the chief executive. 8
- (3) The information must not be used, disclosed or 9  
accessed for a purpose other than to give a notice 10  
to the person under this part. 11

## **Division 9            Review and appeal** 12

### **138ZR Reviewable decisions and affected persons** 13

- (1) Each of the following decisions of the chief 14  
executive is a *reviewable decision*— 15
- (a) a decision to issue an exclusion to a person; 16
- (b) a decision, on the application of a person 17  
under section 85(3), not to end the interim 18  
bar imposed on the person; 19
- (c) a decision under section 116(4)(b) not to 20  
end the suspension of the person’s 21  
clearance; 22
- (d) a decision, on the application of a person 23  
under section 130 to cancel the person’s 24  
exclusion, to refuse the application. 25
- (2) A person mentioned in subsection (1) in relation 26  
to a reviewable decision is the *affected person* for 27  
the decision. 28

[s 11]

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|  |                                  |
|--|----------------------------------|
| <b>138ZS Review process must start with internal review</b>  | 1<br>2                           |
| An affected person for a reviewable decision may apply to the tribunal for a review of the decision only if—   | 3<br>4<br>5                      |
| (a) the affected person has applied for an internal review of the decision; and  | 6<br>7                           |
| (b) the internal review application has been decided, or is taken to have been decided, under this division.   | 8<br>9<br>10                     |
| <br>   |                                  |
| <b>138ZT Who may apply for internal review</b>   | 11                               |
| (1) An affected person for a reviewable decision may apply to the chief executive for a review of the decision under this division (an <i>internal review</i> ).   | 12<br>13<br>14                   |
| (2) However, if the chief executive made the reviewable decision because the affected person is a disqualified person, the affected person may apply for an internal review of the decision only on the ground that the chief executive mistakenly identified the person as a disqualified person. | 15<br>16<br>17<br>18<br>19<br>20 |
| (3) If an affected person for a reviewable decision has not been given a notice about the decision and the reasons for the decision (an <i>information notice</i> ), the affected person may ask the chief executive for a notice about the decision and reasons.                                  | 21<br>22<br>23<br>24<br>25       |
| (4) A failure by the chief executive to give the affected person an information notice about the reviewable decision does not limit or otherwise affect the person’s right to apply for an internal review of the decision.  | 26<br>27<br>28<br>29<br>30       |
| <br>   |                                  |
| <b>138ZU Requirements for application</b>  | 31                               |
| (1) An application for internal review of a reviewable decision must—  | 32<br>33                         |

- 
- (a) be made in the approved form and in an approved way; and 1  
2
- (b) be made to the chief executive within— 3
- (i) for a person who has been given an information notice for the decision— 4  
28 days after the day the person is 5  
given the notice; or 6  
7
- (ii) for a person who has not been given an information notice for the decision— 8  
28 days after the day the person 9  
becomes aware of the decision. 10  
11
- Note—* 12
- See also section 138L for the circumstances in 13  
which a person may apply for internal review of a 14  
reviewable decision after the day mentioned in 15  
this section. 16
- (2) The chief executive may, at any time, extend the 17  
period within which the application may be made. 18
- (3) The application does not affect the operation of 19  
the reviewable decision or prevent the decision 20  
being implemented. 21
- (4) In this section— 22
- information notice*, for a reviewable decision, see 23  
section 138ZT(3). 24

### **138ZV Internal review** 25

- (1) The chief executive must, within 28 days after 26  
receiving an application for internal review of a 27  
reviewable decision— 28
- (a) review the reviewable decision; and 29
- (b) decide to— 30
- (i) confirm the reviewable decision; or 31
- (ii) substitute another decision for the 32  
reviewable decision; and 33

[s 11]

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- (c) give the affected person for the reviewable decision a QCAT information notice for the chief executive's decision. 1  
2  
3
- (2) The chief executive may give the affected person notice extending, for a further 28 days, the period for the chief executive to comply with subsection (1). 4  
5  
6  
7
- (3) The application may be dealt with only by a person who— 8  
9
- (a) did not make the reviewable decision; and 10
- (b) holds a more senior office than the person who made the reviewable decision. 11  
12
- (4) Subsection (3) does not apply to a reviewable decision made by the chief executive personally. 13  
14
- (5) If the chief executive does not give the affected person a QCAT information notice within the period required under subsection (1) or a longer period notified under subsection (2), the chief executive is taken to confirm the reviewable decision. 15  
16  
17  
18  
19  
20
- 138ZW Applying for external review** 21
- (1) This section applies to a person who must be given a QCAT information notice for an internal review decision. 22  
23  
24
- (2) The person may apply to the tribunal, as provided under the QCAT Act, for a review of the internal review decision. 25  
26  
27
- 138ZX Stay of operation of particular tribunal decisions** 28  
29
- (1) This section applies if, on an application for a review of an internal review decision under section 138ZW, the tribunal sets aside the internal 30  
31  
32



- 
- review decision and decides to— 1
- (a) issue a clearance to a person; or 2
  - (b) end an interim bar imposed on a person; or 3
  - (c) end the suspension of a person’s clearance. 4
- (2) The tribunal’s decision does not take effect 5  
until— 6
- (a) the end of the period within which an appeal 7  
against the tribunal’s decision may be 8  
started; or 9
  - (b) if an appeal against the tribunal’s decision is 10  
started—the appeal is decided or withdrawn. 11
- (3) This section applies despite the QCAT Act, 12  
sections 145 and 152. 13
- 138ZY Effect of applicant for review becoming 14  
disqualified person 15**
- (1) This section applies if— 16
    - (a) an affected person for a reviewable decision 17  
applies— 18
      - (i) to the chief executive for an internal 19  
review of the decision; or 20
      - (ii) to the tribunal for a review of an 21  
internal review decision; and 22
    - (b) after making the application, the affected 23  
person becomes a disqualified person. 24
  - (2) The application and any proceeding that relates to 25  
the application must be dismissed. 26
  - (3) Subsection (2) applies to a proceeding before the 27  
tribunal, even if dismissal would be contrary to a 28  
direction of the Court of Appeal. 29
  - (4) Any appeal from a decision of the tribunal that 30  
relates to the application must also be dismissed. 31

[s 11]

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|--|---------------------------------|----|
| <b>Division 10</b>                                     | <b>Miscellaneous provisions</b> | 1  |
| <b>138ZZ False or misleading information</b>           |                                 | 2  |
| A person must not, for this part, give information,    |                                 | 3  |
| or a document containing information, that the         |                                 | 4  |
| person knows is false or misleading in a material      |                                 | 5  |
| particular to—   |                                 | 6  |
| (a) the chief executive; or                            |                                 | 7  |
| (b) an NDIS service provider or funded service         |                                 | 8  |
| provider that engages, or is proposing to              |                                 | 9  |
| engage, the person.                                    |                                 | 10 |
| Maximum penalty—100 penalty units or 2 years           |                                 | 11 |
| imprisonment.  |                                 | 12 |
| <b>138ZZA Chief executive may arrange for use of</b>   | <b>information system</b>       | 13 |
|  |                                 | 14 |
| (1) The chief executive may approve a system (an       |                                 | 15 |
| <i>information system</i> ) for—                       |                                 | 16 |
| (a) generating, sending, receiving, storing or         |                                 | 17 |
| otherwise processing electronic                        |                                 | 18 |
| communications between the chief                       |                                 | 19 |
| executive and another person under this                |                                 | 20 |
| part; or   |                                 | 21 |
| (b) generating a decision of the chief executive       |                                 | 22 |
| under this part, other than a decision—                |                                 | 23 |
| (i) that requires the chief executive to               |                                 | 24 |
| conduct a risk assessment of a person                  |                                 | 25 |
| before making the decision; or                         |                                 | 26 |
| (ii) prescribed by regulation as a decision            |                                 | 27 |
| that may not be generated by the                       |                                 | 28 |
| information system.                                    |                                 | 29 |
| (2) The chief executive must take all reasonable steps |                                 | 30 |
| to ensure that a decision generated by the             |                                 | 31 |

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information system is correct. 1

(3) A decision generated by the information system is 2  
taken to be a decision made by the chief executive 3  
under this part. 4

(4) The chief executive may make a decision in 5  
substitution for a decision the chief executive is 6  
taken to have made under subsection (3) if the 7  
chief executive is satisfied that the decision 8  
generated by the information system is incorrect. 9

**138ZZB Notice given to notifiable person by NDIS 10  
commission 11**

(1) This section applies if— 12

(a) another provision of this part requires the 13  
chief executive to give a notice about a 14  
person to a notifiable person for the person; 15  
and 16

(b) the person— 17

(i) is the applicant for an NDIS worker 18  
screening application; or 19

(ii) holds an NDIS clearance, NDIS 20  
exclusion, interstate NDIS clearance or 21  
interstate NDIS exclusion. 22

(2) Despite the other provision, the chief executive is 23  
not required to give the notice to the notifiable 24  
person if the chief executive, under an 25  
arrangement mentioned in section 138ZI(1)(a)— 26

(a) has given the NDIS commission the 27  
information about the person that is 28  
required, under the provision, to be included 29  
in the notice; and 30

(b) is satisfied the information has been, or will 31  
be, communicated to the notifiable person 32  
by the NDIS commission, including, for 33

[s 12]

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|                  |   |                            |
|------------------|---|----------------------------|
|                  | example, electronically through the NDIS<br>worker screening database.  | 1<br>2                     |
|                  | (3) For this part, information about a person<br>communicated to a notifiable person by the NDIS<br>commission as mentioned in subsection (2) is<br>taken to have been given to the notifiable person<br>in a notice by the chief executive under the other<br>provision. | 3<br>4<br>5<br>6<br>7<br>8 |
| <b>Clause 12</b> | <b>Amendment of s 139 (Purpose of pt 6)</b>   | 9                          |
|                  | (1) Section 139, heading, ‘pt 6’—<br><i>omit, insert—</i>   | 10<br>11                   |
|                  | <b>part</b>   | 12                         |
|                  | (2) Section 139(a), after ‘disability services’—<br><i>insert—</i>  | 13<br>14                   |
|                  | or NDIS supports or services  | 15                         |
| <b>Clause 13</b> | <b>Amendment of s 140 (Application of part)</b>   | 16                         |
|                  | (1) Section 140(1)—<br><i>omit, insert—</i>   | 17<br>18                   |
|                  | (1) This part applies in relation to the following<br>service providers that provide disability services<br>or NDIS supports or services to an adult with an<br>intellectual or cognitive disability—   | 19<br>20<br>21<br>22       |
|                  | (a) an NDIS service provider;   | 23                         |
|                  | (b) a funded service provider;  | 24                         |
|                  | (c) the department;   | 25                         |
|                  | (d) another service provider prescribed by<br>regulation for this section.  | 26<br>27                   |
|                  | (2) Section 140(2)(b) and (4), after ‘disability services’—<br><i>insert—</i>   | 28<br>29                   |

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|                  |   |  |
|------------------|---|--|
|                  | or NDIS supports or services  | 1                                      |
| <b>Clause 14</b> | <b>Replacement of s 205 (Positive notice card is evidence of holding positive notice)</b>   | 2<br>3                                 |
|                  | Section 205—  | 4                                      |
|                  | <i>omit, insert—</i>  | 5                                      |
|                  | <b>205 Clearance card is evidence of clearance</b>  | 6                                      |
|                  | A clearance card issued to a person is evidence that the person holds a clearance.  | 7<br>8                                 |
| <b>Clause 15</b> | <b>Amendment of s 206 (Indictable and summary offences)</b>   | 9                                      |
|                  | Section 206(1)—   | 10                                     |
|                  | <i>omit, insert—</i>  | 11                                     |
|                  | (1) An offence against this Act is an indictable offence that is a crime if the maximum penalty for the offence is—   | 12<br>13<br>14                         |
|                  | (a) 500 penalty units or more; or   | 15                                     |
|                  | (b) 5 years imprisonment or more.   | 16                                     |
| <b>Clause 16</b> | <b>Amendment of s 207 (Proceedings for indictable offences)</b>   | 17<br>18                               |
|                  | (1) Section 207(2)(a) and (b)—  | 19                                     |
|                  | <i>omit, insert—</i>  | 20                                     |
|                  | (a) the magistrate is satisfied, at any stage of the hearing and after hearing submissions by the prosecution and defence, that because of the nature or seriousness of the offence or any other relevant consideration the defendant, if convicted, may not be adequately punished on summary conviction; or | 21<br>22<br>23<br>24<br>25<br>26<br>27 |
|                  | (b) the magistrate is satisfied, on an application made by the defence, that because of   | 28<br>29                               |

[s 17]

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|                  |   |    |
|------------------|---|----|
|                  | exceptional circumstances the offence                         | 1  |
|                  | should not be heard and decided summarily.                    | 2  |
| (2)              | Section 207(4), ‘150 penalty units or 2 years’—               | 3  |
|                  | <i>omit, insert—</i>  | 4  |
|                  | 100 penalty units or 3 years                                  | 5  |
| <b>Clause 17</b> | <b>Amendment of s 216 (Application of division)</b>           | 6  |
| (1)              | Section 216(1)(a)—  | 7  |
|                  | <i>omit, insert—</i>  | 8  |
|                  | (a) applies in relation to the following service              | 9  |
|                  | providers that provide disability services or                 | 10 |
|                  | NDIS supports or services to an adult with                    | 11 |
|                  | an intellectual or cognitive disability—                      | 12 |
|                  | (i) an NDIS service provider;                                 | 13 |
|                  | (ii) a funded service provider;                               | 14 |
|                  | (iii) the department;   | 15 |
|                  | (iv) another service provider prescribed by                   | 16 |
|                  | regulation for this section; and                              | 17 |
| (2)              | Section 216(1)(b)(i) and (2)(b), after ‘disability services’— | 18 |
|                  | <i>insert—</i>  | 19 |
|                  | or NDIS supports or services                                  | 20 |
| <b>Clause 18</b> | <b>Amendment of s 222 (Establishment of Ministerial</b>       | 21 |
|                  | <b>advisory committees)</b>                                   | 22 |
|                  | Section 222(b), ‘and disability services’—                    | 23 |
|                  | <i>omit, insert—</i>  | 24 |
|                  | , disability services and NDIS supports or services           | 25 |

|                  |  |                                  |
|------------------|--|----------------------------------|
| <b>Clause 19</b> | <b>Replacement of s 227 (Confidentiality of information about criminal history and related information)</b>  | 1<br>2                           |
|                  | Section 227—   | 3                                |
|                  | <i>omit, insert—</i>   | 4                                |
|                  | <b>227 Confidentiality of police, disciplinary, mental health and other protected information</b>  | 5<br>6                           |
|                  | (1) This section applies to a person who—  | 7                                |
|                  | (a) is or has been a public service employee employed in the department; and   | 8<br>9                           |
|                  | (b) in that capacity, was given, or given access to, protected information about another person.   | 10<br>11<br>12                   |
|                  | (2) The following information is <i>protected information</i> about a person—  | 13<br>14                         |
|                  | (a) police information about the person and information related to the police information;   | 15<br>16<br>17                   |
|                  | (b) domestic violence information about the person and information related to the domestic violence information;   | 18<br>19<br>20                   |
|                  | (c) disciplinary information about the person;   | 21                               |
|                  | (d) NDIS disciplinary or misconduct information about the person;  | 22<br>23                         |
|                  | (e) information about the person’s mental health, including, for example, information given to the chief executive under part 5, division 8, subdivision 6;  | 24<br>25<br>26<br>27             |
|                  | (f) other information about the person given to the chief executive to help the chief executive decide whether the person poses an unacceptable risk of harm to people with disability, including information about the person given to the chief executive— | 28<br>29<br>30<br>31<br>32<br>33 |
|                  | (i) by the NDIS commission; or   | 34                               |

[s 20]

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|                  |  |                       |
|------------------|--|-----------------------|
|                  | (ii) by an NDIS worker screening unit; or  | 1                     |
|                  | (iii) by a prescribed entity under section 138R.   | 2<br>3                |
| (3)              | The person must not use the protected information, or disclose or give access to the protected information to anyone else, unless the use, disclosure or giving of access is allowed under subsection (4). | 4<br>5<br>6<br>7<br>8 |
|                  | Maximum penalty—100 penalty units or 2 years imprisonment.   | 9<br>10               |
| (4)              | The person may use the protected information, or disclose or give access to the protected information to another person, if the use, disclosure or giving of access—                                       | 11<br>12<br>13<br>14  |
|                  | (a) is for the performance of the chief executive’s screening functions; or  | 15<br>16              |
|                  | (b) is expressly permitted under part 5; or  | 17                    |
|                  | (c) happens with the consent of the person to whom the information relates; or   | 18<br>19              |
|                  | (d) is otherwise required under an Act.  | 20                    |
| <b>Clause 20</b> | <b>Amendment of s 228 (Confidentiality of other information)</b>   | 21<br>22              |
| (1)              | Section 228(1), from ‘information mentioned’—<br><i>omit, insert—</i><br>protected information under section 227(2).   | 23<br>24<br>25        |
| (2)              | Section 228(3)(c), after ‘disability services’—<br><i>insert—</i><br>or NDIS supports or services  | 26<br>27<br>28        |
| (3)              | Section 228(5)(a), ‘non-government’—<br><i>omit.</i>   | 29<br>30              |



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|                  |  |                            |
|------------------|--|----------------------------|
| <b>Clause 21</b> | <b>Amendment of s 229 (Power to require information or documents)</b>  | 1<br>2                     |
|                  | (1) Section 229, ‘non-government’—   | 3                          |
|                  | <i>omit.</i>   | 4                          |
|                  | (2) Section 229(1), after ‘disability services’—   | 5                          |
|                  | <i>insert—</i>   | 6                          |
|                  | or NDIS supports or services   | 7                          |
| <b>Clause 22</b> | <b>Omission of s 232 (Chief executive may enter into arrangement about giving and receiving information with police commissioner)</b>  | 8<br>9<br>10               |
|                  | Section 232—   | 11                         |
|                  | <i>omit.</i>   | 12                         |
| <b>Clause 23</b> | <b>Amendment of s 239 (Regulation-making power)</b>  | 13                         |
|                  | (1) Section 239(2)—  | 14                         |
|                  | <i>omit, insert—</i>   | 15                         |
|                  | (2) A regulation may—  | 16                         |
|                  | (a) provide for arrangements between the chief executive and the chief executive (working with children) in relation to receiving, withdrawing, dealing with and deciding combined applications; and | 17<br>18<br>19<br>20<br>21 |
|                  | (b) prescribe fees payable under this Act, the matters for which fees are payable and provide for the refund or waiver of the fees; and  | 22<br>23<br>24<br>25       |
|                  | (c) impose a penalty of not more than 20 penalty units for a contravention of a provision of a regulation.   | 26<br>27<br>28             |
|                  | (2) Section 239(3)—  | 29                         |
|                  | <i>omit.</i>   | 30                         |

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[s 24]

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|                  |   |                                    |   |
|------------------|---|------------------------------------|---|
| <b>Clause 24</b> | <b>Insertion of new pt 9, div 13</b>  | 1                                  |   |
|                  | Part 9—   | 2                                  |   |
|                  | <i>insert—</i>  | 3                                  |   |
|                  | <b>Division 13</b>  | <b>Transitional provisions for</b> | 4 |
|                  |   | <b>Disability Services and</b>     | 5 |
|                  |   | <b>Other Legislation (Worker</b>   | 6 |
|                  |   | <b>Screening) Amendment</b>        | 7 |
|                  |   | <b>Act 2020</b>                    | 8 |
|                  | <b>Subdivision 1</b>  | <b>Preliminary</b>                 | 9 |
|                  | <b>367 Definitions for division</b>   | 10                                 |   |
|                  | In this division—   | 11                                 |   |
|                  | <i>amended Act</i> means this Act as in force after the commencement.   | 12<br>13                           |   |
|                  | <i>amendment Act</i> means the <i>Disability Services and Other Legislation (Worker Screening) Amendment Act 2020</i> .   | 14<br>15<br>16                     |   |
|                  | <i>former</i> , for a provision of this Act, means the provision as in force from time to time before the commencement.   | 17<br>18<br>19                     |   |
|                  | <i>new</i> , for a provision of this Act, means the provision as in force from the commencement.  | 20<br>21                           |   |
|                  | <i>transitioned applicant</i> , for a transitioned application, means the person who is taken to have made the application under section 372(2) or (3) or 373(2). | 22<br>23<br>24<br>25               |   |
|                  | <i>transitioned application</i> see sections 372(2) and (3) and 373(2).   | 26<br>27                           |   |
|                  | <i>transitioned clearance</i> see section 369(2).   | 28                                 |   |
|                  | <i>transitioned exclusion</i> see section 371(2).   | 29                                 |   |

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|  |                                 |
|--|---------------------------------|
| <b>368 Particular terms having meaning given under unamended Act</b>   | 1<br>2                          |
| (1) In this division, a term defined under the unamended Act but not under the amended Act has the meaning it had under the unamended Act.   | 3<br>4<br>5                     |
| (2) In this section—<br><i>unamended Act</i> means this Act as in force from time to time before the commencement.   | 6<br>7<br>8                     |
| <b>Subdivision 2 Existing prescribed notices, exemption notices, prescribed notice applications and exemption notice applications</b>  | 9<br>10<br>11<br>12<br>13<br>14 |
| <b>369 Existing positive notice and positive notice card</b>   | 15<br>16                        |
| (1) This section applies if, immediately before the commencement, a person holds a current positive notice or current positive exemption notice.   | 17<br>18<br>19                  |
| (2) The positive notice or positive exemption notice is taken to be a clearance (a <i>transitioned clearance</i> ), that is both an NDIS clearance and a State clearance, issued to the person under new part 5, division 4. | 20<br>21<br>22<br>23<br>24      |
| (3) However, for the purposes of a corresponding law, the positive notice or positive exemption notice is taken to be a State clearance issued to the person under new part 5, division 4.                                   | 25<br>26<br>27<br>28            |
| (4) The term of the transitioned clearance ends, unless it is cancelled earlier—   | 29<br>30                        |

[s 24]

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- (a) if the person holds a positive notice—when the positive notice would have ended under the unamended Act; or 1  
2  
3
- (b) if the person holds a positive exemption notice because, on the commencement, the person also holds a working with children authority—on the day the term of the person’s working with children authority is due to end under the Working with Children Act, regardless of whether the authority is cancelled earlier under that Act. 4  
5  
6  
7  
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11
- (5) A positive notice card for the person’s positive notice, or an exemption card for the person’s positive exemption notice, is taken to be a clearance card issued to the person under new section 98 for the person’s clearance under subsection (2). 12  
13  
14  
15  
16  
17
- (6) To remove any doubt, it is declared that subsection (2) applies even if the person is a disqualified person on the commencement. 18  
19  
20
- Note—* 21
- See, however, new section 119 which requires the chief executive to cancel a person’s clearance if the person becomes a disqualified person. 22  
23  
24

**370 Existing suspension of positive notice or positive exemption notice** 25  
26

- (1) This section applies if, immediately before the commencement— 27  
28
- (a) former section 74 applied to a person and a prescribed event under that section had not happened for the person; or 29  
30  
31
- (b) a current positive notice held by a person was suspended under former section 86; or 32  
33

- 
- (c) a current positive exemption notice held by a person was suspended under former section 88. 1  
2  
3
- (2) The person's transitioned clearance is taken to have been suspended under new section 111. 4  
5
- (3) The chief executive must give the person, and each notifiable person for the person, a notice that states— 6  
7  
8
- (a) the person's transitioned clearance is taken to have been suspended under new section 111; and 9  
10  
11
- (b) how long the suspension will continue; and 12
- (c) the effect of the suspension. 13
- (4) An application under former section 87 or 89 to cancel the person's suspended positive notice or positive exemption notice that, immediately before the commencement, had not been decided or withdrawn is taken to be an application under new section 116 to end the suspension under subsection (2). 14  
15  
16  
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18  
19  
20
- (5) The suspension and application may be dealt with under the amended Act. 21  
22
- (6) However, the person may not apply under new section 116 to end the suspension under subsection (2) until 6 months after the commencement. 23  
24  
25  
26
- 371 Existing current negative notice or current negative exemption notice** 27  
28
- (1) This section applies if, immediately before the commencement, a person holds a current negative notice or current negative exemption notice. 29  
30  
31
- (2) The negative notice or negative exemption notice is taken to be an exclusion (a *transitioned exclusion*), that is both an NDIS exclusion and a 32  
33  
34

[s 24]

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State exclusion, issued to the person under new 1  
part 5, division 4. 2

(3) However, for the purposes of a corresponding 3  
law, the negative notice or negative exemption 4  
notice is taken to be a State exclusion issued to the 5  
person under new part 5, division 4. 6

(4) New section 130(1)(a) applies in relation to the 7  
transitioned exclusion as if the reference in new 8  
section 130(1)(a) to 5 years after the exclusion 9  
was issued were a reference to 5 years after the 10  
negative notice or negative exemption notice was 11  
issued to the person. 12

**372 Existing prescribed notice application or 13  
exemption notice application 14**

(1) This section applies if— 15  
(a) immediately before the commencement, a 16  
prescribed notice application or exemption 17  
notice application about a person had been 18  
made but not decided, withdrawn or taken to 19  
be withdrawn; or 20

(b) an exemption notice application about a 21  
person given, under an arrangement 22  
between the chief executive and the chief 23  
executive (working with children), to the 24  
chief executive (working with children) 25  
before the commencement is given to the 26  
chief executive after the commencement. 27

(2) If the person is a person who may make an 28  
application under new section 65, the application 29  
is taken to be an NDIS worker screening 30  
application (a *transitioned application*) made by 31  
the person. 32

(3) If the person is a person who may make an 33  
application under new section 66, the application 34  
is taken to be a State disability worker screening 35

- 
- application (also a *transitioned application*) 1  
made by the person. 2
- (4) If neither subsection (2) nor (3) applies to the 3  
application— 4
- (a) the application lapses on the 5  
commencement; and 6
- (b) the chief executive must give the person 7  
who made the application and the person 8  
about whom the application was made a 9  
notice that states the application has lapsed. 10
- (5) To remove any doubt, it is declared that 11  
subsections (2) and (3) apply even if the person is 12  
a disqualified person on the commencement. 13
- 373 Existing consent to screening by person 14  
engaged by department 15**
- (1) This section applies if— 16
- (a) before the commencement, a person gave 17  
the chief executive consent under former 18  
section 50 to undertake screening of the 19  
person under former part 5; and 20
- (b) immediately before the commencement— 21
- (i) the person’s consent had not been 22  
withdrawn; and 23
- (ii) the chief executive had not made a 24  
decision about issuing the person a 25  
prescribed notice or exemption notice. 26
- (2) The person’s consent is taken to be a State 27  
disability worker screening application (also a 28  
*transitioned application*) made by the person. 29
- (3) To remove any doubt, it is declared that 30  
subsection (2) applies even if the person is a 31  
disqualified person on the commencement. 32

[s 24]

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|--|----------------------------|
| <b>374 Dealing with and deciding transitioned applications</b>   | 1<br>2                     |
| (1) The amended Act applies for dealing with and deciding a transitioned application.  | 3<br>4                     |
| (2) The chief executive must give a notice that states the transitioned application is being dealt with and decided as an application made under the amended Act by the transitioned applicant for the application to— | 5<br>6<br>7<br>8<br>9      |
| (a) the transitioned applicant; and  | 10                         |
| (b) if the transitioned applicant is not the person who made the application—the person who made the application.  | 11<br>12<br>13             |
| <i>Note—</i>   | 14                         |
| See new section 69 in relation to the chief executive asking for further information relating to the transitioned application.   | 15<br>16<br>17             |
| (3) The notice must be given to the transitioned applicant and person mentioned in subsection (2)(b) within 1 month after—   | 18<br>19<br>20             |
| (a) for a transitioned application mentioned in section 372(1)(b)—the chief executive (working with children) gives the transitioned application to the chief executive; or  | 21<br>22<br>23<br>24<br>25 |
| (b) otherwise—the commencement.  | 26                         |
| <b>375 Application of new pt 5 to transitioned applicants</b>  | 27<br>28                   |
| (1) This section applies to a person if, on the commencement, the person—  | 29<br>30                   |
| (a) is the transitioned applicant for a transitioned application; and  | 31<br>32                   |
| (b) is engaged to carry out disability work by an NDIS service provider, funded service  | 33<br>34                   |



- 
- provider or the department, other than as a  
volunteer; and
- (c) does not hold a transitioned exclusion.
- (2) This section also applies to a person if, on the  
commencement, the person—
- (a) is the transitioned applicant for a  
transitioned application; and
- (b) is carrying out disability work as either—
- (i) an NDIS sole trader or State sole  
trader; or
- (ii) a volunteer engaged by an NDIS  
service provider, funded service  
provider or the department to carry out  
disability work; and
- (c) holds a transitioned clearance or a working  
with children authority.
- (3) Despite new part 5 and until a relevant event  
happens for the person—
- (a) the person may continue to carry out, or be  
engaged to carry out, the disability work;  
and
- (b) new sections 53, 54, 59 and 61 do not apply  
in relation to the person carrying out the  
disability work.
- (4) Each of the following is a *relevant event* for the  
person—
- (a) the person's transitioned application is  
decided or withdrawn;
- (b) for a person who holds a transitioned  
clearance—the clearance is suspended or  
cancelled;
- (c) an interim bar is imposed on the person.

[s 24]

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**Subdivision 3 Application of new part 5** 1  
**for particular persons** 2

**376 Working with children authority holders** 3

- (1) This section applies to a person if, on the 4  
commencement, the person— 5
- (a) holds a working with children authority; and 6
  - (b) does not hold a transitioned clearance or a 7  
transitioned exclusion. 8
- (2) This section also applies to a person if— 9
- (a) the person is issued a working with children 10  
authority after the commencement in 11  
relation to a working with children check 12  
application made by the person before the 13  
commencement; and 14
  - (b) when the working with children authority is 15  
issued to the person, the person does not 16  
hold a clearance or exclusion, including a 17  
transitioned clearance or transitioned 18  
exclusion. 19
- (3) However, this section does not apply to a person 20  
who is a transitioned applicant for a transitioned 21  
application on the commencement. 22
- (4) Until a relevant event happens for the person— 23
- (a) the person may carry out, or be engaged to 24  
carry out, disability work; and 25
  - (b) a registered NDIS provider or funded 26  
service provider may engage the person to 27  
carry out disability work; and 28
  - (c) new sections 53, 54, 59 and 61 do not apply 29  
in relation to the person carrying out 30  
disability work. 31
- (5) Subsection (4) applies only to the extent the 32

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disability work includes the delivery of disability 1  
services or NDIS supports or services to a child or 2  
children with disability. 3

- (6) Each of the following is a *relevant event* for the 4  
person— 5
- (a) the person's working with children authority 6  
expires under the Working with Children 7  
Act and, at the time of the expiry, the person 8  
has not made a disability worker screening 9  
application; 10
  - (b) the person's working with children authority 11  
is suspended or cancelled under the 12  
Working with Children Act; 13
  - (c) a negative notice is issued to the person 14  
under the Working with Children Act; 15
  - (d) the person makes a disability worker 16  
screening application and the application is 17  
decided or withdrawn or an interim bar is 18  
imposed on the person. 19

### **377 Registered health practitioners** 20

- (1) This section applies to a person if, on the 21  
commencement, the person— 22
- (a) is a registered health practitioner; and 23
  - (b) does not hold a transitioned clearance or a 24  
transitioned exclusion. 25
- (2) However, this section does not apply to a person 26  
who is a transitioned applicant for a transitioned 27  
application on the commencement. 28
- (3) Until a relevant event happens for the person— 29
- (a) the person may carry out, or be engaged to 30  
carry out, disability work; and 31

[s 24]

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- (b) a registered NDIS provider or funded service provider may engage the person to carry out disability work; and 1  
2  
3
- (c) new sections 53, 54, 59 and 61 do not apply in relation to the person carrying out disability work. 4  
5  
6
- (4) Each of the following is a *relevant event* for the person— 7  
8
- (a) the person’s current health profession registration expires under the Health Practitioner Regulation National Law (Queensland) and, at the time of the expiry, the person has not made a disability worker screening application; 9  
10  
11  
12  
13  
14
- (b) the person’s current health profession registration is surrendered, suspended or cancelled under the Health Practitioner Regulation National Law (Queensland); 15  
16  
17  
18
- (c) the person makes a disability worker screening application and the application is decided or withdrawn or an interim bar is imposed on the person. 19  
20  
21  
22
- (5) In this section— 23
- current health profession registration* means the person’s registration in a health profession under the Health Practitioner Regulation National Law (Queensland) during the period of registration that is in effect on the commencement. 24  
25  
26  
27  
28
- Subdivision 4 New disqualifying offences and new serious offences** 29  
30

- 
- 378 Effect of conviction or charge for new disqualifying offence or new serious offence** 1  
2
- (1) For applying this Act in relation to a person 3  
convicted of a new disqualifying offence or new 4  
serious offence, it does not matter when the 5  
offence was committed or when the person was 6  
convicted of the offence. 7
- (2) This Act applies in relation to a person who is 8  
charged with a new disqualifying offence or new 9  
serious offence even if the charge, or the acts or 10  
omissions constituting the alleged offence, 11  
happened before the commencement. 12
- (3) For applying this Act to a transitioned 13  
clearance— 14
- (a) a person convicted of a new disqualifying 15  
offence or new serious offence before the 16  
commencement is taken to have been 17  
convicted of the offence on the 18  
commencement; and 19
- (b) a person the subject of a charge for a new 20  
disqualifying offence or new serious offence 21  
that has not been dealt with on the 22  
commencement is taken to have been 23  
charged with the offence on the 24  
commencement; and 25
- (c) the fact that the person has been charged 26  
with, or convicted of, a new disqualifying 27  
offence or new serious offence, is taken to 28  
be information not known to the chief 29  
executive before the commencement. 30
- (4) In this section— 31
- new disqualifying offence* means an offence 32  
that— 33
- (a) is a disqualifying offence; but 34

[s 24]

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|   |                           |
|---|---------------------------|
| (b) was not a disqualifying offence immediately before the commencement.  | 1<br>2                    |
| <i>new serious offence</i> means an offence that—   | 3                         |
| (a) is a serious offence; but   | 4                         |
| (b) was not a serious offence immediately before the commencement.  | 5<br>6                    |
| <b>379 Existing application to cancel negative notice or negative exemption notice</b>  | 7<br>8                    |
| (1) This section applies if, immediately before the commencement, an application under former section 82 to cancel a person’s negative notice or negative exemption notice had not been decided or withdrawn. | 9<br>10<br>11<br>12<br>13 |
| (2) If the person is a disqualified person—   | 14                        |
| (a) the application is taken to be withdrawn; and   | 15<br>16                  |
| (b) the chief executive must give a notice about the withdrawal to the person.  | 17<br>18                  |
| (3) If subsection (2) does not apply—   | 19                        |
| (a) the application is taken to be an application made under new section 130 in relation to the person’s transitioned exclusion; and  | 20<br>21<br>22            |
| (b) the amended Act applies for deciding the application.   | 23<br>24                  |
| <b>Subdivision 5 Reassessment of holders of transitioned clearances</b>   | 25<br>26                  |
| <b>380 Reassessment of holder of transitioned clearance</b>   | 27<br>28                  |
| (1) This section applies if, under new section 108, the   | 29                        |

- 
- chief executive conducts a risk assessment of a person who holds a transitioned clearance. 1  
2
- (2) The chief executive may give the person a notice asking the person to give the chief executive stated information, including by way of a submission, about a stated matter that the chief executive reasonably believes is relevant to whether the person poses a risk of harm to people with disability. 3  
4  
5  
6  
7  
8  
9
- (3) A request under subsection (2) must state that, if the person does not comply with the request within the reasonable time stated in the request, the chief executive may decide whether the person poses an unacceptable risk of harm to people with disability without the stated information. 10  
11  
12  
13  
14  
15  
16
- (4) If, after conducting the risk assessment of the person, the chief executive is required, or decides, to cancel the person's transitioned clearance under new part 5, division 6, subdivision 3, the chief executive must issue a State exclusion to the person. 17  
18  
19  
20  
21  
22
- (5) Subsection (4) applies despite new section 122. 23

## **Subdivision 6 Reviews and appeals** 24

### **381 Definitions for subdivision** 25

In this subdivision— 26

*affected person*, for a part 5 reviewable decision, means the person about whom the decision was made. 27  
28  
29

*part 5 reviewable decision* means a part 5 reviewable decision under former section 108. 30  
31

[s 24]

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|  |                                 |
|--|---------------------------------|
| <b>382 Undecided reviews or appeals</b>  | 1                               |
| (1) This section applies if, immediately before the commencement—  | 2<br>3                          |
| (a) an application for a review of a part 5 reviewable decision, made under former section 109 by the affected person for the decision, had not been decided or withdrawn; or  | 4<br>5<br>6<br>7<br>8           |
| (b) an appeal against a decision of the tribunal relating to a part 5 reviewable decision, started under the QCAT Act by the affected person for the decision or the chief executive, had not been decided or withdrawn. | 9<br>10<br>11<br>12<br>13<br>14 |
| (2) The entity hearing the review or appeal must dismiss—  | 15<br>16                        |
| (a) the application or appeal; and   | 17                              |
| (b) any proceeding that relates to the application or appeal.  | 18<br>19                        |
| (3) Subsection (2) applies to a proceeding before the tribunal even if the dismissal would be contrary to a direction of the Court of Appeal.  | 20<br>21<br>22                  |
| (4) The chief executive must make a new decision about the affected person under section 385.  | 23<br>24                        |
| <b>383 Reviews not started on commencement</b>   | 25                              |
| (1) This section applies if—   | 26                              |
| (a) before the commencement—   | 27                              |
| (i) the chief executive made a part 5 reviewable decision; and   | 28<br>29                        |
| (ii) the affected person for the decision had not applied for a review of the decision under former section 109; and   | 30<br>31<br>32                  |



- 
- (b) on the commencement— 1
- (i) the affected person is not a disqualified 2  
person; and 3
- (ii) the period for applying for a review of 4  
the decision had not ended. 5
- (2) The affected person may, within the period 6  
mentioned in subsection (1)(b)(ii), apply to the 7  
chief executive to make a new decision about the 8  
person under section 385. 9
- (3) No fee is payable for an application under 10  
subsection (2). 11

**384 Appeals not started on commencement** 12

- (1) This section applies if— 13
- (a) before the commencement, the chief 14  
executive or the affected person had a right 15  
to appeal, under the QCAT Act, against a 16  
decision of the tribunal relating to a part 5 17  
reviewable decision; and 18
- (b) on the commencement, the period for 19  
starting the appeal had not ended. 20
- (2) The right to appeal ends on the commencement. 21
- (3) Instead, within the period mentioned in 22  
subsection (1)(b)— 23
- (a) the affected person may apply to the chief 24  
executive to make a new decision about the 25  
affected person under section 385; or 26
- (b) the chief executive may decide to make a 27  
new decision about the affected person 28  
under section 385. 29
- (4) No fee is payable for an application under 30  
subsection (3)(a). 31

[s 24]

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|  |                            |
|--|----------------------------|
| <b>385 Chief executive must make new decision about affected person</b>  | 1<br>2                     |
| (1) This section applies in relation to the chief executive making a new decision about an affected person for a part 5 reviewable decision—   | 3<br>4<br>5                |
| (a) under section 382(4) or 384(3)(b); or  | 6                          |
| (b) on application by the affected person under section 383(2), 384(3)(a), 386(5) or 387(5).   | 7<br>8                     |
| (2) The chief executive must, within the prescribed period—  | 9<br>10                    |
| (a) conduct a risk assessment of the affected person; and  | 11<br>12                   |
| (b) decide—  | 13                         |
| (i) if the person holds a transitioned exclusion—to cancel or not to cancel the exclusion; or  | 14<br>15<br>16             |
| (ii) if the person holds a transitioned clearance that is suspended—to cancel or not to cancel the suspension; and   | 17<br>18<br>19             |
| (c) give the person a QCAT information notice for the chief executive’s decision.  | 20<br>21                   |
| (3) The chief executive may give the affected person a notice extending, for a further 28 days, the period for the chief executive to comply with subsection (2).  | 22<br>23<br>24<br>25       |
| (4) For conducting the risk assessment under subsection (2)(a)—  | 26<br>27                   |
| (a) new part 5, division 4, subdivision 3 applies with necessary changes; and  | 28<br>29                   |
| (b) the chief executive may give the affected person a notice asking the person to give the chief executive stated information, including by way of a submission, about a stated matter that the chief executive | 30<br>31<br>32<br>33<br>34 |

- 
- reasonably believes is relevant to whether  
the person poses a risk of harm to people  
with disability.
- (5) A request under subsection (4)(b) must state that,  
if the affected person does not comply with the  
request within the reasonable time stated in the  
request, the chief executive may decide whether  
the person poses an unacceptable risk of harm to  
people with disability without the stated  
information.
- (6) The chief executive must decide the matter under  
subsection (2)(b) afresh, disregarding the part 5  
reviewable decision and the reasons for that  
decision.
- (7) The risk assessment under subsection (2)(a), and  
the decision under subsection (2)(b), may be  
conducted and made only by a person who—
- (a) did not make the part 5 reviewable decision;  
and
- (b) holds a more senior office than the person  
who made the part 5 reviewable decision.
- (8) Subsection (7) does not apply to a part 5  
reviewable decision made by the chief executive  
personally.
- (9) If the chief executive does not give the affected  
person a QCAT information notice within the  
prescribed period or a longer period notified  
under subsection (3), the chief executive is taken  
to have decided—
- (a) if the person holds a transitioned  
exclusion—not to cancel the exclusion; or
- (b) if the person holds a transitioned clearance  
that is suspended—not to cancel the  
suspension.
- (10) New sections 138ZW, 138ZX and 138ZY apply
-

[s 24]

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in relation to the chief executive's decision under 1  
this section as if it were an internal review 2  
decision. 3

(11) In this section— 4

*prescribed period* means 28 days after— 5

(a) for making a new decision under section 6  
382(4)—the commencement; or 7

(b) for making a new decision under section 8  
384(3)(b)—the period mentioned in section 9  
384(1)(b) ends; or 10

(c) for making a new decision on application by 11  
an affected person under section 383(2), 12  
384(3)(a), 386(5) or 387(5)—the application 13  
is made. 14

**386 Undecided appeals about investigative 15  
information decisions 16**

(1) This section applies if, immediately before the 17  
commencement, an appeal to a Magistrates Court 18  
about a decision that information is investigative 19  
information, made under former section 113, had 20  
not been decided or withdrawn. 21

(2) The court may continue to hear and decide the 22  
appeal as if the amendment Act had not been 23  
enacted. 24

(3) Former sections 113 and 114 continue to apply in 25  
relation to the appeal as if the amendment Act had 26  
not been enacted. 27

(4) If the court sets aside the decision appealed 28  
against, the appellant may apply to the chief 29  
executive under new section 130(1)(b) to cancel 30  
the appellant's transitioned exclusion. 31

(5) If the court confirms the decision appealed 32  
against, the appellant may apply for a new 33  
decision under section 385 in relation to the 34

- 
- relevant part 5 reviewable decision. 1
- (6) An application mentioned in subsection (5)— 2
- (a) must be made within 28 days after the 3  
appellant is given notice of the court's 4  
decision under former section 114(4); and 5
- (b) may be made even if, before the appeal was 6  
decided, the appellant applied to the chief 7  
executive for a new decision under section 8  
385 in relation to the relevant part 5 9  
reviewable decision. 10
- (7) No fee is payable for an application under 11  
subsection (5). 12
- (8) In this section— 13
- relevant part 5 reviewable decision*, in relation to 14  
the appellant, means a part 5 reviewable decision 15  
relating to the issue of the negative notice or 16  
negative exemption notice in relation to which the 17  
appellant started the appeal. 18
- 387 Appeals about investigative information 19  
decisions not started on commencement 20**
- (1) This section applies if— 21
- (a) before the commencement, a person had a 22  
right to appeal to a Magistrates Court under 23  
former section 113 about a decision that 24  
information, given to the chief executive as 25  
investigative information, is investigative 26  
information; and 27
- (b) on the commencement, the period for 28  
starting the appeal had not ended. 29
- (2) The person may, within the period mentioned in 30  
subsection (1)(b), appeal to a Magistrates Court 31  
about the decision. 32
- (3) Former sections 113 and 114 apply in relation to 33

[s 24]

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- the appeal as if the amendment Act had not been enacted. 1  
2
- (4) If the court sets aside the decision appealed against, the appellant may apply to the chief executive under new section 130(1)(b) to cancel the appellant's transitioned exclusion. 3  
4  
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- (5) If the court confirms the decision appealed against, the appellant may apply for a new decision under section 385 in relation to the relevant part 5 reviewable decision. 7  
8  
9  
10
- (6) An application mentioned in subsection (5)— 11
- (a) must be made within 28 days after the appellant is given notice of the court's decision under former section 114(4); and 12  
13  
14
- (b) may be made even if, before the appeal was decided, the appellant applied to the chief executive for a new decision under section 385 in relation to the relevant part 5 reviewable decision. 15  
16  
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- (7) No fee is payable for an application under subsection (5). 20  
21
- (8) In this section— 22
- relevant part 5 reviewable decision*, in relation to the appellant, means a part 5 reviewable decision relating to the issue of the negative notice or negative exemption notice in relation to which the appellant started the appeal. 23  
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## **Subdivision 7 Other transitional provisions** 28 29

### **388 Things done before commencement in relation to prescribed notice or exemption notice** 30 31

- (1) This section applies in relation to a thing done by 32

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- the chief executive or another person under this Act before the commencement in relation to—
- (a) a prescribed notice application or exemption notice application; or
  - (b) screening, under former part 5, a person who consented to the screening under former section 50; or
  - (c) a positive notice, positive exemption notice, negative notice or negative exemption notice.
- (2) The thing is taken to have been done under the amended Act in relation to—
- (a) for a thing done in relation to a prescribed notice application or exemption notice application—the transitioned application under section 372(2) or (3) for the application; or
  - (b) for a thing done in relation to screening, under former part 5, a person who consented to the screening under former section 50—the person’s transitioned application under section 373(2); or
  - (c) for a thing done in relation to a positive notice or positive exemption notice—the transitioned clearance under section 369(2) for the notice; or
  - (d) for a thing done in relation to a negative notice or negative exemption notice—the transitioned exclusion under section 371(2) for the notice.
- (3) The amended Act applies for the purpose of subsection (2) with necessary changes.
- (4) This section does not limit another provision of this division.

[s 24]

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|  |                                  |
|--|----------------------------------|
| <b>389 Obligations or powers arising before commencement in relation to prescribed notice or exemption notice</b>  | 1<br>2<br>3                      |
| (1) This section applies if—   | 4                                |
| (a) before the commencement, the chief executive or another person was required or permitted under this Act to do, but did not do, something in relation to—   | 5<br>6<br>7<br>8                 |
| (i) a prescribed notice application or exemption notice application; or  | 9<br>10                          |
| (ii) screening, under former part 5, a person who consented to the screening under former section 50; or   | 11<br>12<br>13                   |
| (iii) a positive notice, a positive exemption notice, a negative notice or a negative exemption notice; and  | 14<br>15<br>16                   |
| (b) on the commencement, the period within which the chief executive or other person was required or permitted to do the thing has not ended.  | 17<br>18<br>19<br>20             |
| (2) The chief executive or other person must or may do the thing under the amended Act in relation to—   | 21<br>22<br>23                   |
| (a) for a thing required or permitted to be done in relation to a prescribed notice application or exemption notice application—the transitioned application under section 372(2) or (3) for the application; or               | 24<br>25<br>26<br>27<br>28       |
| (b) for a thing required or permitted to be done in relation to screening, under former part 5, a person who consented to the screening under former section 50—the person’s transitioned application under section 373(2); or | 29<br>30<br>31<br>32<br>33<br>34 |



- 
- (c) for a thing required or permitted to be done in relation to a positive notice or positive exemption notice—the transitioned clearance under section 369(2) for the notice; or
- (d) for a thing required or permitted to be done in relation to a negative notice or negative exemption notice—the transitioned exclusion under section 371(2) for the notice.
- (3) The amended Act applies for the purpose of subsection (2) with necessary changes.
- (4) This section does not limit another provision of this division.

**390 Particular references in Act or document**

- In an Act or a document, to the extent the context permits—
- (a) a reference to a prescribed notice application or exemption notice application under this Act includes a reference to a disability worker screening application; and
- (b) a reference to a positive notice or positive exemption notice under this Act includes a reference to a clearance; and
- (c) a reference to a negative notice or a negative exemption notice under this Act includes a reference to an exclusion.

**391 Eligibility applications and eligibility declarations lapse**

- (1) An eligibility application made but not decided before the commencement lapses.
- (2) An eligibility declaration held by a person

[s 24]

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immediately before the commencement lapses. 1

**392 Continuing obligation of confidentiality** 2

- (1) This section applies if— 3
  - (a) immediately before the commencement, 4  
former section 227 applied to a person in 5  
relation to particular information; and 6
  - (b) on the commencement, new section 227 7  
does not apply to the person in relation to 8  
the information. 9
- (2) Former section 227 continues to apply to the 10  
person in relation to the information as if the 11  
amendment Act had not been enacted. 12

**393 Transitional regulation-making power** 13

- (1) A regulation (a *transitional regulation*) may 14  
make provision about a matter for which— 15
  - (a) it is necessary to make provision to allow or 16  
facilitate the doing of anything to achieve 17  
the transition from the operation of this Act 18  
as it was in force before the commencement 19  
to the operation of the amended Act; and 20
  - (b) this Act does not make provision or 21  
sufficient provision. 22
- (2) A transitional regulation may have retrospective 23  
operation to a day not earlier than the day this 24  
section commences. 25
- (3) A transitional regulation must declare it is a 26  
transitional regulation. 27
- (4) A transitional regulation may only be made within 28  
2 years after the day this section commences. 29
- (5) This section and any transitional regulation expire 30  
3 years after the day this section commences. 31

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|                  |  |   |
|------------------|--|---|
| <b>Clause 25</b> | <b>Replacement of sch 2 (Current serious offences)</b> | 1 |
|                  | Schedule 2—  | 2 |
|                  | <i>omit, insert—</i>                                   | 3 |
|                  | <b>Schedule 2 Current serious offences</b>             | 4 |
|                  |  | 5 |
|                  | schedule 8, definition <i>serious offence</i>          | 6 |

**1 Animal Care and Protection Act 2001**

| <b>Provision</b> | <b>Relevant heading</b>   | <b>Circumstances for offence</b> |
|------------------|---------------------------|----------------------------------|
| 18               | Animal cruelty prohibited |                                  |

**2 Criminal Code**

| <b>Provision</b> | <b>Relevant heading</b>                         | <b>Circumstances for offence</b>   |
|------------------|---|--|
| 215              | Carnal knowledge with or of children under 16   | the offence is not a disqualifying offence   |
| 218              | Procuring sexual acts by coercion etc.          | the offence is not a disqualifying offence   |
| 221              | Conspiracy to defile                            | the offence is not a disqualifying offence   |
| 222              | Incest  | the offence is not a disqualifying offence   |
| 223              | Distributing intimate images                    | the offence was committed in relation to an intimate image of a child or vulnerable person |
| 227A             | Observations or recordings in breach of privacy | the offence was committed against a child or vulnerable person                             |

[s 25]

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| <b>Provision</b> | <b>Relevant heading</b>  | <b>Circumstances for offence</b>   |
|------------------|--|--|
| 227B             | Distributing prohibited visual recordings                            | the offence was committed in relation to a prohibited visual recording of a child or vulnerable person |
| 229BB            | Failure to protect child from child sexual offence                   |  |
| 242              | Serious animal cruelty   |  |
| 300              | Unlawful homicide  | the offence is not a disqualifying offence   |
| 311              | Aiding suicide   |  |
| 313(1) or (2)    | Killing unborn child   |  |
| 314A             | Unlawful striking causing death                                      |  |
| 315              | Disabling in order to commit indictable offence                      | the offence is not a disqualifying offence   |
| 315A             | Choking, suffocation or strangulation in a domestic setting          | the offence is not a disqualifying offence   |
| 316              | Stupefying in order to commit indictable offence                     | the offence is not a disqualifying offence   |
| 317              | Acts intended to cause grievous bodily harm and other malicious acts | the offence is not a disqualifying offence   |
| 320              | Grievous bodily harm   |  |
| 320A             | Torture  | the offence is not a disqualifying offence   |
| 321              | Attempting to injure by explosive or noxious substances              | the offence is not a disqualifying offence   |

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| <b>Provision</b> | <b>Relevant heading</b>                  | <b>Circumstances for offence</b>  |
|------------------|--|---|
| 322              | Administering poison with intent to harm | the offence is not a disqualifying offence and the penalty under section 322, penalty, paragraph (a) applies to the offence |
| 323              | Wounding                                 |   |
| 323A             | Female genital mutilation                | the offence is a not disqualifying offence  |
| 324              | Failure to supply necessities            | the offence was committed against a child or vulnerable person who is a person under care in relation to the offender       |
| 326              | Endangering life of children by exposure | the offence was committed against a child who is a person under care in relation to the offender                            |
| 327              | Setting mantraps                         | the offence is not a disqualifying offence  |
| 328              | Negligent acts causing harm              | the offence was committed against a child or vulnerable person who is a person under care in relation to the offender       |
| 328A(4)          | Dangerous operation of a vehicle         |   |
| 352              | Sexual assaults                          | the offence is not a disqualifying offence  |
| 354              | Kidnapping                               | the offence is not a disqualifying offence  |
| 354A             | Kidnapping for ransom                    | the offence is not a disqualifying offence  |

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[s 25]

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| <b>Provision</b> | <b>Relevant heading</b>                              | <b>Circumstances for offence</b>   |
|------------------|--|--|
| 363              | Child-stealing                                       | the offence is not a disqualifying offence   |
| 363A             | Abduction of child under 16                          | the offence is not a disqualifying offence   |
| 364              | Cruelty to children under 16                         | the offence was committed against a child who is a person under care in relation to the offender       |
| 399              | Fraudulent concealment of particular documents       | the offence was committed with intent to defraud a child or vulnerable person                          |
| 408C             | Fraud  | the offence was committed against, or in relation to the property of, a child or vulnerable person     |
| 408D             | Obtaining or dealing with identification information | the offence was committed in relation to identification information about a child or vulnerable person |
| 415              | Extortion  | the penalty under section 415(1), penalty, paragraph (a) applies to the offence                        |
| 430              | Fraudulent falsification of records                  | the offence was committed with intent to defraud a child or vulnerable person                          |
| 488              | Forgery and uttering                                 | the offence was committed with intent to defraud a child or vulnerable person                          |

**3 Drugs Misuse Act 1986**

| Provision | Relevant heading                             | Circumstances for offence  |
|-----------|--|--|
| 5         | Trafficking in dangerous drugs               |  |
| 6         | Supplying dangerous drugs                    | the offence is one of aggravated supply under section 6(2)(a), (aa), (b) or (c)      |
| 8         | Producing dangerous drugs                    | the penalty under section 8(1), penalty, paragraph (a) or (b) applies to the offence |
| 9D        | Trafficking in relevant substances or things |  |

|  |  |   |                                  |
|--|--|---|----------------------------------|
| <b>Clause 26</b>   | <b>Amendment of sch 3 (Repealed or expired serious offences)</b> |   | 1                                |
|  |  |   | 2                                |
|  | (1) Schedule 3, authorising provision, ‘section 47’—             |   | 3                                |
|  | <i>omit, insert—</i>   |   | 4                                |
|  | schedule 8, definition <i>serious offence</i>                    |   | 5                                |
| (2) Schedule 3, entry for the Criminal Code, table, column headings— |  | 6   |                                  |
|  |  | 7   |                                  |
| <i>omit, insert—</i>   |  | 8   |                                  |
|  |  |   |                                  |
|  | <b>Provision</b>   | <b>Relevant heading</b>   | <b>Circumstances for offence</b> |
|  | (3) Schedule 3, entry for the Criminal Code—                     |   | 9                                |
|  | <i>insert—</i>   |   | 10                               |
| 400  | Concealing wills   | as the provision was in force from time to time before its repeal by the <i>Criminal Code and Other Acts Amendment Act 2008</i> |                                  |

[s 27]

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|     |   |   |
|-----|---|---|
| 401 | Concealing deeds  | as the provision was in force from time to time before its repeal by the <i>Criminal Code and Other Acts Amendment Act 2008</i> |
| 416 | Attempts at extortion by threats                                      | as the provision was in force from time to time before its repeal by the <i>Criminal Code and Other Acts Amendment Act 2008</i> |
| 417 | Procuring execution of deeds etc. by threats                          | as the provision was in force from time to time before its repeal by the <i>Criminal Code and Other Acts Amendment Act 2008</i> |
| 427 | Obtaining goods or credit by false pretence or wilfully false promise | as the provision was in force from time to time before its repeal by the <i>Criminal Law Amendment Act 1997</i>                 |

|     |  |                                   |   |
|-----|--|-----------------------------------|---|
| (4) | Schedule 3, entry for column headings— | the Criminal Code (Cwlth), table, | 1 |
|     | <i>omit, insert—</i>                   |                                   | 2 |
|     |  |                                   | 3 |

|                  |                         |                                  |
|------------------|-------------------------|----------------------------------|
| <b>Provision</b> | <b>Relevant heading</b> | <b>Circumstances for offence</b> |
|------------------|-------------------------|----------------------------------|

|               |           |  |   |
|---------------|-----------|--|---|
| <b>Clause</b> | <b>27</b> | <b>Replacement of sch 4 (Current disqualifying offences)</b> | 4 |
|               |           | Schedule 4—  | 5 |
|               |           | <i>omit, insert—</i>   | 6 |
|               |           | <b>Schedule 4</b>  | 7 |
|               |           | <b>Current disqualifying offences</b>                        | 8 |
|               |           | schedule 8, definition <i>disqualifying offence</i>          | 9 |



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### **1 *Classification of Computer Games and Images Act 1995***

| <b>Provision</b> | <b>Relevant heading</b>  | <b>Circumstances for offence</b> |
|------------------|--|----------------------------------|
| 23               | Demonstration of an objectionable computer game before a minor |                                  |
| 26(3)            | Possession of objectionable computer game                      |                                  |
| 27(3) or (4)     | Making objectionable computer game                             |                                  |
| 28               | Obtaining minor for objectionable computer game                |                                  |

### **2 *Classification of Films Act 1991***

| <b>Provision</b> | <b>Relevant heading</b>                     | <b>Circumstances for offence</b> |
|------------------|---|----------------------------------|
| 41(3)            | Possession of objectionable film            |                                  |
| 42(3) or (4)     | Making objectionable film                   |                                  |
| 43               | Procurement of minor for objectionable film |                                  |

### **3 *Classification of Publications Act 1991***

| <b>Provision</b> | <b>Relevant heading</b>               | <b>Circumstances for offence</b>  |
|------------------|---------------------------------------|---|
| 12               | Sale etc. of prohibited publication   | the penalty under section 12, penalty, paragraph (c) applies to the offence |
| 13               | Possession of prohibited publication  | the penalty under section 13, penalty, paragraph (c) applies to the offence |
| 14               | Possession of child abuse publication |   |

[s 27]

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| <b>Provision</b> | <b>Relevant heading</b>                                  | <b>Circumstances for offence</b>  |
|------------------|--|---|
| 15               | Exhibition or display of prohibited publication          | the penalty under section 15, penalty, paragraph (c) applies to the offence   |
| 16               | Leaving prohibited publication in or on public place     | the penalty under section 16, penalty, paragraph (c) applies to the offence   |
| 17               | Producing prohibited publication                         | the penalty under section 17(1), penalty, paragraph (c), (2), penalty, paragraph (c), (3) or (4) applies to the offence |
| 18               | Procurement of minor for RC publication                  |   |
| 20               | Leaving prohibited publication in or on private premises | the penalty under section 20, penalty, paragraph (c) applies to the offence   |

#### **4 Criminal Code**

| <b>Provision</b> | <b>Relevant heading</b>                             | <b>Circumstances for offence</b>  |
|------------------|---|---|
| 210              | Indecent treatment of children under 16             |   |
| 211              | Bestiality  |   |
| 213              | Owner etc. permitting abuse of children on premises |   |
| 215              | Carnal knowledge with or of children under 16       | the offence was committed against a child aged under 14 years or a child who is more than 5 years younger than the offender |
| 216              | Abuse of persons with an impairment of the mind     |   |

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| <b>Provision</b> | <b>Relevant heading</b>  | <b>Circumstances for offence</b>                               |
|------------------|--|--|
| 217              | Procuring young person etc. for carnal knowledge                         |  |
| 218              | Procuring sexual acts by coercion etc.                                   | the offence was committed against a child or vulnerable person |
| 218A             | Using internet etc. to procure children under 16                         |  |
| 218B             | Grooming child under 16 years or parent or carer of child under 16 years |  |
| 219              | Taking child for immoral purposes  |  |
| 221              | Conspiracy to defile   | the offence was committed against a child or vulnerable person |
| 222              | Incest   | the offence was committed against a child or vulnerable person |
| 228              | Obscene publications and exhibitions                                     | a penalty under section 228(2) or (3) applies to the offence   |
| 228A             | Involving child in making child exploitation material                    |  |
| 228B             | Making child exploitation material                                       |  |
| 228C             | Distributing child exploitation material                                 |  |
| 228D             | Possessing child exploitation material                                   |  |

[s 27]

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| <b>Provision</b> | <b>Relevant heading</b>  | <b>Circumstances for offence</b>                          |
|------------------|--|---|
| 228DA            | Administering child exploitation material website                                |   |
| 228DB            | Encouraging use of child exploitation material website                           |   |
| 228DC            | Distributing information about avoiding detection                                |   |
| 228I             | Producing or supplying child abuse object  |   |
| 228J             | Possessing child abuse object  |   |
| 229B             | Maintaining a sexual relationship with a child                                   |   |
| 229FA            | Obtaining prostitution from person who is not an adult                           |   |
| 229G             | Procuring engagement in prostitution   | the penalty under section 229G(2) applies to the offence  |
| 229H             | Knowingly participating in provision of prostitution                             | the penalty under section 229H(2) applies to the offence  |
| 229HB            | Carrying on business of providing unlawful prostitution                          | the penalty under section 229HB(2) applies to the offence |
| 229I             | Persons found in places reasonably suspected of being used for prostitution etc. | the penalty under section 229I(2) applies to the offence  |
| 229L             | Permitting young person etc. to be at place used for prostitution                |   |
| 300              | Unlawful homicide  | the unlawful killing is murder under section 302          |
| 306              | Attempt to murder  |   |

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| <b>Provision</b> | <b>Relevant heading</b>  | <b>Circumstances for offence</b>  |
|------------------|--|---|
| 307              | Accessory after the fact to murder                                   |   |
| 309              | Conspiring to murder   |   |
| 315              | Disabling in order to commit indictable offence                      | the offence was committed against a child or vulnerable person  |
| 315A             | Choking, suffocation or strangulation in a domestic setting          | the offence was committed against a child or vulnerable person  |
| 316              | Stupefying in order to commit indictable offence                     | the offence was committed against a child or vulnerable person  |
| 317              | Acts intended to cause grievous bodily harm and other malicious acts | the offence was committed against a child or vulnerable person  |
| 320A             | Torture  | the offence was committed against a child or vulnerable person  |
| 321              | Attempting to injure by explosive or noxious substances              | the offence was committed against a child or vulnerable person  |
| 322              | Administering poison with intent to harm                             | the offence was committed against a child or vulnerable person and the penalty under section 322, penalty, paragraph (a) applies to the offence |
| 323A             | Female genital mutilation  | the offence was committed against a child or vulnerable person  |
| 323B             | Removal of child from State for female genital mutilation            |   |

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[s 28]

| <b>Provision</b> | <b>Relevant heading</b>  | <b>Circumstances for offence</b>   |   |
|------------------|--|--|---|
| 327              | Setting mantraps   | the commission of the offence resulted in the death or injury of a child or vulnerable person      |   |
| 349              | Rape   |  |   |
| 350              | Attempt to commit rape   |  |   |
| 351              | Assault with intent to commit rape                                     |  |   |
| 352              | Sexual assaults  | the offence was committed against a child or vulnerable person                                     |   |
| 354              | Kidnapping   | the offence was committed against a child or a vulnerable person, other than in a familial context |   |
| 354A             | Kidnapping for ransom  | the offence was committed against a child or a vulnerable person, other than in a familial context |   |
| 363              | Child-stealing   | the offence was not committed in a familial context  |   |
| 363A             | Abduction of child under 16  | the offence was not committed in a familial context  |   |
| <b>Clause 28</b> | <b>Amendment of sch 5 (Repealed or expired disqualifying offences)</b> |  | 1 |
|                  | (1) Schedule 5, authorising provision—                                 |  | 2 |
|                  | <i>omit, insert—</i>   |  | 3 |
|                  | schedule 8, definition <i>disqualifying offence</i>                    |  | 4 |
|                  |  |  | 5 |

- 
- (2) Schedule 5, entry for the Criminal Code, table, column 1  
headings— 2  
*omit, insert—* 3

**Provision Relevant heading Circumstances for offence**

- (3) Schedule 5, entry for the Criminal Code— 4  
*insert—* 5

325 Endangering life or as the provision was in force from  
health of apprentices or time to time before its repeal by the  
servants *Training and Employment Act 2000*

- (4) Schedule 5, entry for the *Crimes Act 1914* (Cwlth), table, 6  
column headings— 7  
*omit, insert—* 8

**Provision Relevant heading Circumstances for offence**

- (5) Schedule 5, entry for the Criminal Code (Cwlth), table, 9  
column headings— 10  
*omit, insert—* 11

**Provision Relevant heading Circumstances for offence**

- Clause 29 Amendment of sch 8 (Dictionary) 12**  
(1) Schedule 8 is amended by omitting each of the following 13  
definitions— 14

[s 29]

|   |   |  |
|---|---|--|
| <i>consumer</i>                               | <i>harm</i>                                       | <i>positive notice card</i>                  |
| <i>corresponding law</i>                      | <i>imprisonment order</i>                         | <i>prescribed notice</i>                     |
| <i>current</i>                                | <i>interim sexual offender order</i>              | <i>prescribed notice application</i>         |
| <i>disqualification order</i>                 | <i>investigative information</i>                  | <i>prescribed period</i>                     |
| <i>disqualified person</i>                    | <i>issue</i>                                      | <i>prescribed person</i>                     |
| <i>disqualifying offence</i>                  | <i>minimum frequency for regulated engagement</i> | <i>registered NDIS provider</i>              |
| <i>eligibility application</i>                | <i>NDIS Act</i>                                   | <i>regulated engagement</i>                  |
| <i>eligibility declaration</i>                | <i>NDIS non-government service provider</i>       | <i>relevant disqualified person</i>          |
| <i>engaged</i>                                | <i>NDIS provider</i>                              | <i>relevant disqualified person decision</i> |
| <i>engaged by the department</i>              | <i>negative exemption notice</i>                  | <i>relevant person</i>                       |
| <i>engaged person</i>                         | <i>negative notice</i>                            | <i>screening decision</i>                    |
| <i>exceptional case</i>                       | <i>non-government service provider</i>            | <i>serious offence</i>                       |
| <i>exemption notice</i>                       |   | <i>service outlet</i>                        |
| <i>exemption notice application</i>           |   |  |
| <i>final offender prohibition order</i>       | <i>part 5 reviewable decision</i>                 | <i>sole trader</i>                           |
| <i>final sexual offender order</i>            | <i>positive exemption notice</i>                  | <i>temporary offender prohibition order</i>  |
| <i>funded non-government service provider</i> | <i>positive notice</i>                            |  |

(2) Schedule 8—

*insert—*

***affected person***, for a reviewable decision, see section 138ZR(2).

***appellant***, for an appeal under section 138J, see section 138J(2).

1  
2  
3  
4  
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6



- 
- applicant**, for part 5, means the applicant for a disability worker screening application. 1  
2
- approved way**, for making an application or request or giving a notice, means a way for making the application or request or giving the notice— 3  
4  
5  
6
- (a) approved by the chief executive; and 7
- (b) notified on— 8
- (i) the department’s website; or 9
- (ii) the whole-of-government website. 10
- authorised entity**, for a person, see section 138ZJ. 11
- banning order** see the *National Disability Insurance Scheme Act 2013* (Cwlth), section 9. 12  
13
- chief executive (child safety)** means the chief executive of the department in which the *Child Protection Act 1999* is administered. 14  
15  
16
- chief executive’s screening functions** means the chief executive’s functions under part 5. 17  
18
- chief executive (working with children)** means the chief executive of the department in which the *Working with Children Act* is administered. 19  
20  
21
- clearance** see section 50(1). 22
- clearance card** means a clearance card for a clearance within the meaning of section 98(2). 23  
24
- combined application** see section 67(2). 25
- conduct**, of a person, means an act or an omission to perform an act. 26  
27
- consumer** means— 28
- (a) for an NDIS service provider—a person with disability who is provided with NDIS supports or services by the service provider; 29  
30  
31  
or 32

[s 29]

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- (b) for the department or a funded service provider—a person with disability who is provided with disability services by the department or service provider. 1  
2  
3  
4
- corresponding law** means a law of another State that relates to the screening of persons who carry out, or propose to carry out, NDIS disability work. 5  
6  
7
- criminal history event**, in relation to a person, see section 138B. 8  
9
- dealt with**, in relation to a charge for an offence, means any of the following— 10  
11
- (a) the person who is charged is convicted or acquitted of the charge; 12  
13
- (b) the person who is charged is convicted of another offence for which the conduct was substantially the same as the conduct of the offence charged; 14  
15  
16  
17
- (c) the charge has been withdrawn or dismissed; 18
- (d) a nolle prosequi or no true bill is presented in relation to the charge. 19  
20
- disability work** means— 21
- (a) NDIS disability work; or 22
- (b) State disability work. 23
- disability worker screening application** means— 24
- (a) an NDIS worker screening application; or 25
- (b) a State disability worker screening application. 26  
27
- disciplinary action**, in relation to a person, see section 138O(2). 28  
29
- disciplinary information**, about a person, see section 138O(1). 30  
31
- disqualified person** means a person who— 32

- 
- (a) has a conviction for a disqualifying offence; 1  
and 2
- (b) was an adult when the offence was 3  
committed. 4
- disqualifying offence*** means— 5
- (a) an offence against a provision of an Act 6  
mentioned in schedule 4 or 5— 7
- (i) if each circumstance (if any) stated for 8  
the offence in the schedule applies to 9  
the offence; and 10
- (ii) regardless of whether the provision has 11  
been amended from time to time or 12  
numbered differently; or 13
- (b) an offence against a provision of an Act of 14  
the Commonwealth prescribed by regulation 15  
to be a disqualifying offence; or 16
- (c) a related offence for an offence mentioned 17  
in paragraph (a) or (b). 18
- domestic violence information***, about a person, 19  
means information about the history of domestic 20  
violence orders made against the person under the 21  
*Domestic and Family Violence Protection Act* 22  
*2012*. 23
- domestic violence order*** see the *Domestic and* 24  
*Family Violence Protection Act 2012*, section 25  
23(2). 26
- employer***, of a person in relation to disability 27  
work, means the entity that engages the person to 28  
carry out the disability work. 29
- engaged***, in relation to carrying out work, see— 30
- (a) section 44; and 31
- (b) also— 32

[s 29]

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|  |                      |
|--|----------------------|
| (i) for risk-assessed NDIS work—section 46; or   | 1<br>2               |
| (ii) for State disability work—sections 48 and 49.   | 3<br>4               |
| <b>exclusion</b> see section 51(1).  | 5                    |
| <b>financial reward</b> does not include a payment that is a reimbursement for expenses.   | 6<br>7               |
| <b>funded service provider</b> see section 14.   | 8                    |
| <b>harm</b> , to a person—   | 9                    |
| (a) for part 6—see section 144; or   | 10                   |
| (b) otherwise—includes any detrimental effect on a person’s physical, psychological, emotional, sexual or financial wellbeing, however the detrimental effect is caused. | 11<br>12<br>13<br>14 |
| <b>interim bar</b> means an interim bar imposed under section 82.  | 15<br>16             |
| <b>internal review</b> , of a reviewable decision, see section 138ZT(1).   | 17<br>18             |
| <b>internal review decision</b> means a decision made, or taken to have been made, under section 138ZV on an application for internal review of a reviewable decision.   | 19<br>20<br>21<br>22 |
| <b>interstate NDIS clearance</b> see section 50(3).  | 23                   |
| <b>interstate NDIS exclusion</b> see section 51(3).  | 24                   |
| <b>investigative information</b> , about a person, see section 138I(1).  | 25<br>26             |
| <b>investigative information decision</b> see section 138J(2).   | 27<br>28             |
| <b>NDIS clearance</b> see section 50(2).   | 29                   |
| <b>NDIS disability work</b> see section 45(1).   | 30                   |
| <b>NDIS disciplinary or misconduct information</b> , about a person—   | 31<br>32             |

- 
- (a) means information about the person’s professional conduct in relation to the national disability insurance scheme given to the chief executive by the NDIS commission; and
- (b) includes information about—
- (i) an incident involving the person, or a complaint or allegation about the person, investigated under the *National Disability Insurance Scheme Act 2013* (Cwlth); and
- (ii) adverse and substantiated findings of an investigation conducted under the *National Disability Insurance Scheme Act 2013* (Cwlth); and
- (iii) a banning order made against the person.
- NDIS exclusion*** see section 51(2).
- NDIS service provider*** see section 15(1).
- NDIS sole trader*** see section 16(1).
- NDIS supports or services*** see section 12A.
- NDIS worker screening application*** means—
- (a) an application for a clearance made under section 65; or
- (b) a combined application to the extent it is an application under section 65.
- NDIS worker screening database*** see the *National Disability Insurance Scheme Act 2013* (Cwlth), section 9.
- NDIS (Worker Screening) Practice Standards*** means NDIS Practice Standards that are made under the *National Disability Insurance Scheme Act 2013* (Cwlth) about the screening of workers employed or otherwise engaged by registered

[s 29]

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|   |                  |
|---|------------------|
| NDIS providers.   | 1                |
| <i>NDIS worker screening unit</i> means an entity responsible, under a corresponding law, for screening persons who carry out, or propose to carry out, NDIS disability work. | 2<br>3<br>4<br>5 |
| <i>notifiable person</i> , for a person, see section 52.  | 6                |
| <i>parent</i> , of a person, includes—  | 7                |
| (a) in any case—the spouse of a parent of the person; and   | 8<br>9           |
| (b) for an Aboriginal person—a person who, under Aboriginal tradition, is regarded as a parent of the person; and   | 10<br>11<br>12   |
| (c) for a Torres Strait Islander—a person who, under Island custom, is regarded as a parent of the person.  | 13<br>14<br>15   |
| <i>person under care</i> , in relation to a person, means a child or vulnerable person who—   | 16<br>17         |
| (a) is receiving care or support because the child or vulnerable person is unable to—   | 18<br>19         |
| (i) care for himself or herself; or   | 20               |
| (ii) protect himself or herself from harm or exploitation; and  | 21<br>22         |
| <i>Examples of a child or vulnerable person who is receiving care or support for a reason mentioned in paragraph (a)(i) or (ii)—</i>  | 23<br>24<br>25   |
| • a child in foster care  | 26               |
| • an elderly person in residential aged care  | 27               |
| • a person with a mental illness receiving inpatient treatment in a hospital  | 28<br>29         |
| (b) has a relationship with the person—   | 30               |
| (i) because of the care or support mentioned in paragraph (a); and  | 31<br>32         |

- 
- (ii) other than because the person is a relative of the child or vulnerable person. 1  
2  
3
- QCAT information notice***, for an internal review decision, means a notice complying with the QCAT Act, section 157(2). 4  
5  
6
- registered NDIS provider*** see section 15(2). 7
- related offence***, for a particular offence, means another offence that is— 8  
9
- (a) an offence of counselling or procuring the commission of the particular offence; or 10  
11
- (b) an offence of attempting, or of conspiring, to commit the particular offence; or 12  
13
- (c) an offence that, at the time it was committed, was the particular offence; or 14  
15
- (d) an offence under a law of another jurisdiction that, if it had been committed in Queensland, would have constituted the particular offence or an offence mentioned in paragraph (a), (b) or (c). 16  
17  
18  
19  
20
- relative***, of a person— 21
- (a) means the person’s spouse, child, parent, grandparent, great-grandparent, brother, sister, uncle, aunt, niece, nephew or first cousin; and 22  
23  
24  
25
- (b) for an Aboriginal person—includes a person who, under Aboriginal tradition, is regarded as a relative mentioned in paragraph (a); and 26  
27  
28
- (c) for a Torres Strait Islander—includes a person who, under Island custom, is regarded as a relative mentioned in paragraph (a); and 29  
30  
31  
32
- (d) for a person with a parent who is not a biological parent—includes anyone who 33  
34

[s 29]

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|  |    |
|--|----|
| would be a relative mentioned in paragraph                       | 1  |
| (a) if the parent were a biological parent.                      | 2  |
| <i>Example for paragraph (d)—</i>                                | 3  |
| the child of a person's step-parent                              | 4  |
| <b>relevant person—</b>  | 5  |
| (a) for part 4—see section 37; or                                | 6  |
| (b) for part 5, division 8—see section 136.                      | 7  |
| <b>reviewable decision</b> see section 138ZR(1).                 | 8  |
| <b>risk-assessed NDIS work</b> see section 45(2).                | 9  |
| <b>risk assessment</b> means a risk assessment under             | 10 |
| part 5, division 4, subdivision 3.                               | 11 |
| <b>risk assessment matter</b> , in relation to a person,         | 12 |
| means a matter that—   | 13 |
| (a) is or may be relevant to whether the person                  | 14 |
| poses a risk of harm to people with                              | 15 |
| disability; and  | 16 |
| (b) is prescribed by regulation to be a risk                     | 17 |
| assessment matter.   | 18 |
| <b>schedule 6 or 7 offence</b> means—                            | 19 |
| (a) an offence against a provision of an Act                     | 20 |
| mentioned in schedule 6 or 7—                                    | 21 |
| (i) if each circumstance (if any) stated for                     | 22 |
| the offence in the schedule applies to                           | 23 |
| the offence; and   | 24 |
| (ii) regardless of whether the provision has                     | 25 |
| been amended from time to time or                                | 26 |
| numbered differently; or   | 27 |
| (b) a related offence for an offence mentioned                   | 28 |
| in paragraph (a).  | 29 |
| <b>section 93A transcript</b> see the <i>Evidence Act 1977</i> , | 30 |
| section 93AA(3).   | 31 |
| <b>serious offence</b> means—                                    | 32 |



- 
- (a) an offence against a provision of an Act mentioned in schedule 2 or 3— 1  
2
- (i) if each circumstance (if any) stated for the offence in the schedule applies to the offence; and 3  
4  
5
- (ii) regardless of whether the provision has been amended from time to time or numbered differently; or 6  
7  
8
- (b) an offence against a provision of an Act of the Commonwealth prescribed by regulation to be a serious offence; or 9  
10  
11
- (c) a related offence for an offence mentioned in paragraph (a) or (b). 12  
13
- State clearance** see section 50(4). 14
- State disability work** see section 47. 15
- State disability worker screening application** means— 16  
17
- (a) an application for a clearance made under section 66; or 18  
19
- (b) a combined application to the extent it is an application under section 66. 20  
21
- State entity** see section 138P. 22
- State exclusion** see section 51(4). 23
- State sole trader** see section 16(2). 24
- vulnerable person** means an adult who, because of the person's age, illness or disability, is, or may be, unable to— 25  
26  
27
- (a) care for himself or herself; or 28
- (b) protect himself or herself from harm or exploitation. 29  
30
- whole-of-government website** means— 31
- (a) [www.qld.gov.au](http://www.qld.gov.au); or 32

[s 29]

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- (b) another website prescribed by regulation. 1  
*working with children check application* see the 2  
Working with Children Act, schedule 7. 3
- (3) Schedule 8, definition *police information*, paragraph (c)— 4  
*omit, insert—* 5
- (c) information about whether the person is or 6  
has been— 7
- (i) subject to offender reporting 8  
obligations; or 9
- (ii) subject to an offender prohibition order 10  
or offender prohibition disqualification 11  
order; or 12
- (iii) named as the respondent to an 13  
application for an offender prohibition 14  
order; or 15
- (iv) the subject of an application for an 16  
offender prohibition disqualification 17  
order. 18
- (4) Schedule 8, definition *relevant review and appeal 19*  
*information*, paragraph (a), from ‘to the tribunal’ to ‘division 20  
11, subdivision 1’— 21  
*omit, insert—* 22  
for a review of the decision under part 5, division 23  
9 24
- (5) Schedule 8, definition *relevant review and appeal 25*  
*information*, paragraph (b)(i), ‘section 113’— 26  
*omit, insert—* 27  
section 138J 28
- (6) Schedule 8, definition *relevant review and appeal 29*  
*information*, paragraph (b)(ii), from ‘to the tribunal’ to 30  
‘section 115’— 31  
*omit, insert—* 32

---

|                  |   |    |
|------------------|---|----|
|                  | for a review of the decision under section 138L   | 1  |
| (7)              | Schedule 8, definition <i>relevant review and appeal information</i> , paragraphs (c) and (d)—  | 2  |
|                  | <i>omit, insert—</i>  | 3  |
|                  | (c) the period within which the person must apply for the review or start the appeal;   | 4  |
|                  | (d) how the person may apply for the review or start the appeal;  | 5  |
|                  |   | 6  |
|                  |   | 7  |
|                  |   | 8  |
| <b>Part 3</b>    | <b>Amendment of Working with Children (Risk Management and Screening) Act 2000</b>  | 9  |
|                  |   | 10 |
|                  |   | 11 |
| <b>Clause 30</b> | <b>Act amended</b>  | 12 |
|                  | This part amends the <i>Working with Children (Risk Management and Screening) Act 2000</i> .  | 13 |
|                  | <i>Note—</i>  | 14 |
|                  | See also the amendments in schedule 1.  | 15 |
|                  |   | 16 |
| <b>Clause 31</b> | <b>Amendment of s 175 (Clearance required to employ person in regulated employment)</b>   | 17 |
|                  | Section 175(2)—   | 18 |
|                  | <i>insert—</i>  | 19 |
|                  | (d) the employee holds a disability exclusion or interstate NDIS exclusion and the employer knows, or ought reasonably to know, the employee holds the disability exclusion or interstate NDIS exclusion. | 20 |
|                  |   | 21 |
|                  |   | 22 |
|                  |   | 23 |
|                  |   | 24 |
|                  |   | 25 |

[s 32]

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|                  |   |   |
|------------------|---|---|
| <b>Clause 32</b> | <b>Amendment of s 176A (Person prohibited from regulated employment without clearance)</b>  | 1<br>2                                      |
|                  | (1) Section 176A(2)—  | 3   |
|                  | <i>insert—</i>  | 4   |
|                  | (e) holds a disability exclusion or interstate NDIS exclusion.  | 5<br>6                                      |
|                  | (2) Section 176A—   | 7   |
|                  | <i>insert—</i>  | 8   |
|                  | (4) Also, if the person was issued a disability exclusion or interstate NDIS exclusion because a disability clearance or interstate NDIS clearance issued to the person was cancelled, a court may not find that the aggravating circumstance mentioned in subsection (2)(e) applies to the person unless the court is satisfied the person was given written notice about— | 9<br>10<br>11<br>12<br>13<br>14<br>15<br>16 |
|                  | (a) the issue of the disability exclusion or interstate NDIS exclusion; or  | 17<br>18                                    |
|                  | (b) the cancellation of the disability clearance or interstate NDIS clearance.  | 19<br>20                                    |
| <b>Clause 33</b> | <b>Amendment of s 176C (Exemption required to employ police officer or registered teacher in regulated employment)</b>  | 21<br>22<br>23                              |
|                  | Section 176C(2)—  | 24  |
|                  | <i>insert—</i>  | 25  |
|                  | (d) the employee holds a disability exclusion or interstate NDIS exclusion and the employer knows, or ought reasonably to know, the employee holds the disability exclusion or interstate NDIS exclusion.   | 26<br>27<br>28<br>29<br>30                  |

|                  |   |    |
|------------------|---|----|
| <b>Clause 34</b> | <b>Amendment of s 176E (Police officer or registered teacher prohibited from regulated employment without exemption)</b>  | 1  |
|                  |   | 2  |
|                  |   | 3  |
|                  | (1) Section 176E(2)—  | 4  |
|                  | <i>insert—</i>  | 5  |
|                  | (e) holds a disability exclusion or interstate NDIS exclusion.  | 6  |
|                  |   | 7  |
|                  | (2) Section 176E—   | 8  |
|                  | <i>insert—</i>  | 9  |
|                  | (4) Also, if the person was issued a disability exclusion or interstate NDIS exclusion because a disability clearance or interstate NDIS clearance issued to the person was cancelled, a court may not find that the aggravating circumstance mentioned in subsection (2)(e) applies to the person unless the court is satisfied the person was given written notice about— | 10 |
|                  |   | 11 |
|                  |   | 12 |
|                  |   | 13 |
|                  |   | 14 |
|                  |   | 15 |
|                  |   | 16 |
|                  |   | 17 |
|                  | (a) the issue of the disability exclusion or interstate NDIS exclusion; or  | 18 |
|                  |   | 19 |
|                  | (b) the cancellation of the disability clearance or interstate NDIS clearance.  | 20 |
|                  |   | 21 |
| <b>Clause 35</b> | <b>Amendment of s 176H (Definitions for division)</b>   | 22 |
|                  | Section 176H, definition <i>restricted employment</i> , paragraph (b), ‘6(3)(c)(i)’—  | 23 |
|                  |   | 24 |
|                  | <i>omit, insert—</i>  | 25 |
|                  | 6A(3)(a) or (b)   | 26 |
| <b>Clause 36</b> | <b>Insertion of new s 187A</b>  | 27 |
|                  | After section 187—  | 28 |
|                  | <i>insert—</i>  | 29 |

[s 37]

---

- 187A Application combined with disability worker screening application** 1  
2
- (1) A person (an *applicant*) may combine an 3  
application mentioned in section 187(1) or (2) 4  
with a disability worker screening application. 5
- (2) An application made under subsection (1) is a 6  
*combined application*. 7
- (3) This chapter applies to a combined application to 8  
the extent it is an application mentioned in section 9  
187(1) or (2). 10
- (4) If a combined application is made to the chief 11  
executive, the chief executive must give the 12  
information in the combined application, to the 13  
extent the information relates to the applicant's 14  
disability worker screening application, to the 15  
chief executive (disability services). 16

- Clause 37 Insertion of new s 190A** 17
- After section 190— 18
- insert—* 19
- 190A Chief executive may request further information for combined application** 20  
21
- (1) This section applies if an applicant made a 22  
combined application and the chief executive 23  
becomes aware that, under the *Disability Services 24  
Act 2006—* 25
- (a) the applicant's disability worker screening 26  
application has been withdrawn; or 27
- (b) a disability exclusion has been issued to the 28  
applicant. 29
- (2) The chief executive may give the applicant a 30  
notice asking the applicant to advise the chief 31  
executive, within a reasonable stated time, 32  
whether or not the applicant wishes to proceed 33

with the working with children check application 1  
under this part. 2

- (3) A request under subsection (2) must state that, if 3  
the applicant does not comply with the request 4  
within the stated time, the applicant's working 5  
with children check application will be 6  
withdrawn. 7

**Clause 38 Insertion of new s 193A** 8

After section 193— 9

*insert—* 10

**193A Effect of interim bar imposed by chief 11  
executive (disability services) 12**

(1) This section applies if— 13

(a) the applicant has also made a disability 14  
worker screening application, regardless of 15  
whether the applicant made a combined 16  
application; and 17

(b) the chief executive is aware that the chief 18  
executive (disability services) has imposed 19  
an interim bar on the applicant under the 20  
*Disability Services Act 2006*, section 82. 21

(2) The chief executive is not required to decide the 22  
applicant's working with children check 23  
application until the chief executive becomes 24  
aware that the interim bar is no longer in effect. 25

(3) If the chief executive defers deciding the working 26  
with children check application under subsection 27  
(2), the chief executive must give the applicant a 28  
written notice about the deferral. 29

**Clause 39 Insertion of new s 196A** 30

After section 196— 31





*insert—*

(d) the chief executive is aware of other information about the person that the chief executive reasonably believes is relevant to deciding whether it would be in the best interests of children for the chief executive to issue a working with children clearance to the person.

(2) Section 221(2), ‘or (c)’—

*omit, insert—*

, (c) or (d)

**Clause 42**

**Amendment of s 223 (Deciding application—negative notice cancelled or holder of eligibility declaration)**

(1) Section 223(2) and (3), from ‘police information’ to ‘subsection (1)(a) or (b),’—

*omit, insert—*

new assessable information about the person,

(2) Section 223—

*insert—*

(5) In this section—

***new assessable information***, about a person, means information about the person that—

(a) is, police information, disciplinary information or other information that the chief executive reasonably believes is relevant to deciding whether it would be in the best interests of children for the chief executive to issue a working with children clearance to the person; and

(b) was not known to the chief executive when the chief executive took the action mentioned in subsection (1)(a) or (b).

[s 43]

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|                  |  |                                  |
|------------------|--|----------------------------------|
| <b>Clause 43</b> | <b>Amendment of s 226 (Deciding exceptional case if conviction or charge)</b>  | 1<br>2                           |
| (1)              | Section 226(2)—<br><i>insert—</i>  | 3<br>4                           |
|                  | (da) information about the person given to the chief executive under the <i>Disability Services Act 2006</i> , section 138ZG;  | 5<br>6<br>7                      |
| (2)              | Section 226(2)(da) and (e)—<br><i>renumber</i> as section 226(2)(e) and (f).   | 8<br>9                           |
| <b>Clause 44</b> | <b>Amendment of s 228 (Deciding exceptional case if disciplinary information exists)</b>   | 10<br>11                         |
| (1)              | Section 228, heading, after ‘disciplinary information’—<br><i>insert—</i>  | 12<br>13                         |
|                  | <b>or other relevant information</b>   | 14                               |
| (2)              | Section 228(1)(b)—<br><i>omit, insert—</i>   | 15<br>16                         |
|                  | (b) is aware of—   | 17                               |
|                  | (i) disciplinary information about the person; or  | 18<br>19                         |
|                  | (ii) other information about the person that the chief executive reasonably believes is relevant to deciding whether it would be in the best interests of children for the chief executive to issue a working with children clearance to the person. | 20<br>21<br>22<br>23<br>24<br>25 |
| (3)              | Section 228(2), ‘The’—<br><i>omit, insert—</i>   | 26<br>27                         |
|                  | If the chief executive is aware of disciplinary information about the person, the  | 28<br>29                         |
| (4)              | Section 228—   | 30                               |

---

*insert—*

- (3) If the chief executive is aware of other information about the person mentioned in subsection (1)(b)(ii), the chief executive must have regard to the following—
- (a) the nature of the information, including the circumstances and gravity of the behaviour or conduct the subject of the information;
  - (b) the relevance of the information to employment, or carrying on a business, that involves or may involve children;
  - (c) the length of time that has passed since the event or conduct the subject of the information occurred;
  - (d) anything else relating to the information that the chief executive reasonably believes is relevant to the assessment of the person.

**Clause 45      Amendment of s 229 (Chief executive to invite submissions from person about particular information)**

Section 229(2)(a)—

*insert—*

- (iii) any other information about the person that the chief executive is aware of that the chief executive reasonably believes is relevant to whether it would be in the best interests of children for the chief executive to issue a working with children clearance to the person; and

**Clause 46      Replacement of s 231 (Term of clearance and negative notice)**

Section 231—

*omit, insert—*

[s 47]

---

## **231 Term of clearance**

- 1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20
- (1) Unless cancelled earlier under part 5A, the term of a working with children clearance issued to a person is—
    - (a) if the chief executive decides the term of the clearance under subsection (2)—the term decided by the chief executive; or
    - (b) otherwise—3 years.
  - (2) The chief executive may decide that the term of a person’s working with children clearance is the same as the term of—
    - (a) if the person made a combined application—a disability clearance issued to the person by the chief executive (disability services) after deciding the application; or
    - (b) a disability clearance otherwise held by the person.
  - (3) The term decided by the chief executive under subsection (2) may be less than 3 years or more than 3 years.

*Note—*

21  
22  
23  
24

Under the *Disability Services Act 2006*, section 101, the term of an NDIS clearance is 5 years and the term of a State clearance is 3 years.

## **231A Term of negative notice**

25  
26  
27

A negative notice remains in force until it is cancelled under part 5A.

## **Clause 47 Amendment of s 283 (Deciding application—police officer if further screening not required)**

28  
29  
30  
31

Section 283(a)—  
*omit, insert—*

---

|                  |  |                            |
|------------------|--|----------------------------|
|                  | (a) the chief executive is not aware of—   | 1                          |
|                  | (i) any police information about the person; or  | 2<br>3                     |
|                  | (ii) any other information about the person that would be relevant to deciding whether it would be in the best interests of children for the chief executive to issue the exemption to the person; and | 4<br>5<br>6<br>7<br>8      |
| <b>Clause 48</b> | <b>Amendment of s 284 (Deciding application—registered teacher if further screening not required)</b>  | 9<br>10                    |
|                  | Section 284(a)—  | 11                         |
|                  | <i>omit, insert—</i>   | 12                         |
|                  | (a) the chief executive is not aware of—   | 13                         |
|                  | (i) any police information or disciplinary information about the person; or  | 14<br>15                   |
|                  | (ii) any other information about the person that would be relevant to deciding whether it would be in the best interests of children for the chief executive to issue the exemption to the person; and | 16<br>17<br>18<br>19<br>20 |
| <b>Clause 49</b> | <b>Replacement of s 289 (Term of exemption and negative notice)</b>  | 21<br>22                   |
|                  | Section 289—   | 23                         |
|                  | <i>omit, insert—</i>   | 24                         |
|                  | <b>289 Term of exemption</b>   | 25                         |
|                  | (1) Unless a relevant event happens earlier, the term of a working with children exemption issued to a person is—  | 26<br>27<br>28             |
|                  | (a) if the chief executive decides the term of the exemption under subsection (2)—the term decided by the chief executive; or  | 29<br>30<br>31             |

[s 50]

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|                  |   |                  |
|------------------|---|------------------|
|                  | (b) otherwise—3 years.  | 1                |
| (2)              | The chief executive may decide that the term of a person's working with children exemption is the same as the term of—  | 2<br>3<br>4      |
|                  | (a) if the person made a combined application—a disability clearance issued to the person by the chief executive (disability services) after deciding the application; or | 5<br>6<br>7<br>8 |
|                  | (b) a disability clearance otherwise held by the person.  | 9<br>10          |
| (3)              | The term decided by the chief executive under subsection (2) may be less than 3 years or more than 3 years.   | 11<br>12<br>13   |
|                  | <i>Note—</i>  | 14               |
|                  | Under the <i>Disability Services Act 2006</i> , section 101, the term of an NDIS clearance is 5 years and the term of a State clearance is 3 years.                       | 15<br>16<br>17   |
| (4)              | Each of the following is a <i>relevant event</i> for a working with children exemption—   | 18<br>19         |
|                  | (a) if the holder of the exemption is a police officer—the holder stops being a police officer;   | 20<br>21<br>22   |
|                  | (b) if the holder of the exemption is a registered teacher—the holder stops being a registered teacher;   | 23<br>24<br>25   |
|                  | (c) the exemption is cancelled under part 5A.   | 26               |
|                  | <b>289A Term of negative notice</b>   | 27               |
|                  | A negative notice remains in force until it is cancelled under part 5A.   | 28<br>29         |
| <b>Clause 50</b> | <b>Amendment of s 304A (Cancelling authority because of subsequent information)</b>   | 30<br>31         |
|                  | (1) Section 304A(1)—  | 32               |

*insert—*

(ab) other information about the person that the chief executive reasonably believes is relevant to deciding whether it would be in the best interests of children for the person to continue to hold the authority that was not known to the chief executive when the decision was made; or

(2) Section 304A(1)(ab) and (b)—

*renumber* as section 304A(1)(b) and (c).

**Clause 51 Replacement of s 344 (Chief executive must give information about particular holders to chief executive (disability services))**

Section 344—

*omit, insert—*

**344 Giving information to chief executive (disability services)**

(1) This section applies to information about a person—

(a) the chief executive was given, or given access to, under chapter 7 or this chapter; or

(b) in the chief executive's possession in relation to an employment-screening decision about the person.

(2) The chief executive may give information about a person to the chief executive (disability services) if the chief executive reasonably believes the information is relevant to the functions of the chief executive (disability services) under the *Disability Services Act 2006*, part 5.

(3) Without limiting subsection (2), the information that may be given includes—

[s 52]

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|                  |  |                            |
|------------------|--|----------------------------|
|                  | (a) information about a working with children check application made by a person; and  | 1<br>2                     |
|                  | (b) information about a working with children authority or negative notice held by a person; and   | 3<br>4<br>5                |
|                  | (c) police information about a person; and   | 6                          |
|                  | (d) disciplinary information about a person; and   | 7                          |
|                  | (e) information about a person's mental health.  | 8                          |
| <b>Clause 52</b> | <b>Insertion of new s 344C</b>   | 9                          |
|                  | After section 344B—  | 10                         |
|                  | <i>insert—</i>   | 11                         |
|                  | <b>344C Notifying self-managed NDIS participant about particular matters</b>   | 12<br>13                   |
|                  | (1) This section applies if—   | 14                         |
|                  | (a) a child is an NDIS participant; and  | 15                         |
|                  | (b) a relevant person for the child gives the chief executive written notice that a stated person carrying on an NDIS regulated business is delivering NDIS supports or services to the child. | 16<br>17<br>18<br>19<br>20 |
|                  | (2) The chief executive may give the child, a person with parental responsibility for the child or the child's plan manager a written notice about any of the following matters—               | 21<br>22<br>23<br>24       |
|                  | (a) if a working with children check application made by the person is decided—that fact and whether the person was issued a working with children authority or negative notice;               | 25<br>26<br>27<br>28<br>29 |
|                  | (b) if a working with children authority held by the person expires or is suspended or   | 30<br>31                   |



- 
- cancelled—the expiry, suspension or  
cancellation; 1  
2
- (c) if, under section 339(3), the chief executive 3  
is required to give a notifiable person for the 4  
person a notice about a change in police 5  
information about the person—the change 6  
in the police information. 7
- (3) A notice about a matter mentioned in subsection 8  
(2)(c) must include only the information about the 9  
change in the police information that the chief 10  
executive is required to give a notifiable person 11  
for the person under section 339(3). 12
- (4) In this section— 13
- NDIS participant* means a participant in the 14  
national disability insurance scheme under the 15  
*National Disability Insurance Scheme Act 2013* 16  
(Cwlth). 17
- NDIS regulated business* means a regulated 18  
business mentioned in schedule 1, section 16A. 19
- parental responsibility* see the *National* 20  
*Disability Insurance Scheme Act 2013* (Cwlth), 21  
section 75. 22
- plan manager*, for a child who is an NDIS 23  
participant, means a person other than the child 24  
who is managing the funding for supports under 25  
the child’s plan within the meaning of the 26  
*National Disability Insurance Scheme Act 2013* 27  
(Cwlth), section 42. 28
- relevant person*, for a child who is an NDIS 29  
participant, means— 30
- (a) the child; or 31
- (b) a person with parental responsibility for the 32  
child; or 33
- (c) the child’s plan manager; or 34

[s 53]

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|                  |   |                |
|------------------|---|----------------|
|                  | (d) a person who carries on an NDIS regulated business that includes delivering NDIS supports or services to the child.                                   | 1<br>2<br>3    |
| <b>Clause 53</b> | <b>Omission of s 345 (Use of information obtained under this chapter about a person)</b>  | 4<br>5         |
|                  | Section 345—  | 6              |
|                  | <i>omit.</i>  | 7              |
| <b>Clause 54</b> | <b>Amendment of s 350 (Holder must notify change and pay prescribed application fee—volunteer or business carried on other than for financial reward)</b> | 8<br>9<br>10   |
|                  | Section 350(4), from ‘issue a replacement’—   | 11             |
|                  | <i>omit, insert—</i>  | 12             |
|                  | issue the person—   | 13             |
|                  | (a) a new working with children clearance with a new term under section 231; or   | 14<br>15       |
|                  | (b) a replacement working with children card for the person’s clearance.  | 16<br>17       |
| <b>Clause 55</b> | <b>Amendment of s 384 (Confidentiality of police, disciplinary and mental health information)</b>   | 18<br>19       |
|                  | (1) Section 384, heading, ‘police, disciplinary and mental health’—   | 20<br>21       |
|                  | <i>omit, insert—</i>  | 22             |
|                  | <b>protected</b>  | 23             |
|                  | (2) Section 384(1)(b)—  | 24             |
|                  | <i>omit, insert—</i>  | 25             |
|                  | (b) in that capacity, was given, or given access to, any of the following information ( <i>protected information</i> ) about a person—                    | 26<br>27<br>28 |

- 
- |       |  |  |
|-------|--|--|
| (i)   | police information about the person and information related to the police information;   | 1<br>2<br>3  |
| (ii)  | disciplinary information about the person;   | 4<br>5   |
| (iii) | information about the person's mental health, including, for example, information about a proceeding in the Mental Health Court or the Mental Health Review Tribunal about the person;   | 6<br>7<br>8<br>9<br>10<br>11                       |
| (iv)  | other information about the person that the chief executive has considered in making an employment-screening decision about the person, including, for example, information given to the chief executive by the chief executive (disability services) under the <i>Disability Services Act 2006</i> , section 138ZG. | 12<br>13<br>14<br>15<br>16<br>17<br>18<br>19<br>20 |
| (3)   | Section 384(2)(a), 'information mentioned in subsection (1)(b)'—<br><i>omit, insert—</i><br>protected information  | 21<br>22<br>23<br>24                               |
| (4)   | Section 384(3) and (4), before 'information'—<br><i>insert—</i><br>protected   | 25<br>26<br>27                                     |
| (5)   | Section 384(4)(d)—<br><i>omit, insert—</i><br>(d) is expressly permitted under chapter 8 or section 395; or  | 28<br>29<br>30<br>31                               |

[s 56]

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|                  |  |                            |
|------------------|--|----------------------------|
| <b>Clause 56</b> | <b>Replacement of s 385 (Confidentiality of other information)</b>   | 1<br>2                     |
|                  | Section 385—   | 3                          |
|                  | <i>omit, insert—</i>   | 4                          |
|                  | <b>385 Confidentiality of other information</b>  | 5                          |
|                  | (1) This section applies to a person who—  | 6                          |
|                  | (a) is or has been—  | 7                          |
|                  | (i) a Minister or a member of the Minister’s staff; or   | 8<br>9                     |
|                  | (ii) a public service employee employed in the department; and   | 10<br>11                   |
|                  | (b) in that capacity, was given or given access to confidential information.   | 12<br>13                   |
|                  | (2) However, this section does not apply in relation to confidential information that is protected information under section 384.  | 14<br>15<br>16             |
|                  | (3) The person must not use the confidential information, or disclose or give access to the confidential information to anyone else, unless the use, disclosure or giving of access is allowed under subsection (4). | 17<br>18<br>19<br>20<br>21 |
|                  | Maximum penalty—100 penalty units.   | 22                         |
|                  | (4) The person may use the confidential information, or disclose or give access to the confidential information to another person, if the use, disclosure or giving of access—                                       | 23<br>24<br>25<br>26       |
|                  | (a) is for the purpose of this Act; or   | 27                         |
|                  | (b) is for the purpose of obtaining advice for, or giving advice to, the Minister in relation to the confidential information; or  | 28<br>29<br>30             |
|                  | (c) is for the purpose of performing a function under another law; or  | 31<br>32                   |
|                  | (d) is for a proceeding in a court or tribunal; or   | 33                         |

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|                  |  |                            |
|------------------|--|----------------------------|
|                  | (e) is authorised under a regulation or another law; or  | 1<br>2                     |
|                  | (f) happens with the consent of the person to whom the confidential information relates; or  | 3<br>4<br>5                |
|                  | (g) is for a purpose directly related to a child's protection or welfare.  | 6<br>7                     |
| <b>Clause 57</b> | <b>Amendment of s 395 (Reports by chief executive)</b>   | 8                          |
|                  | Section 395(3)(b), from 'chapter 8'—   | 9                          |
|                  | <i>omit, insert—</i>   | 10                         |
|                  | chapter 8 or 8A, including—  | 11                         |
|                  | (i) protected information under section 384; and   | 12<br>13                   |
|                  | (ii) confidential information to which section 385 applies.  | 14<br>15                   |
| <b>Clause 58</b> | <b>Amendment of s 401 (Regulation-making power)</b>  | 16                         |
|                  | (1) Section 401(2)—  | 17                         |
|                  | <i>omit, insert—</i>   | 18                         |
|                  | (2) A regulation may—  | 19                         |
|                  | (a) provide for arrangements between the chief executive and the chief executive (disability services) in relation to receiving, withdrawing, dealing with and deciding combined applications; and | 20<br>21<br>22<br>23<br>24 |
|                  | (b) prescribe fees payable under the Act and provide for the fees to be refunded or waived; and  | 25<br>26<br>27             |
|                  | (c) provide for a maximum penalty of 20 penalty units for a contravention of a regulation.   | 28<br>29<br>30             |

[s 59]

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- (2) Section 401(4) and (5)— 1  
*omit.* 2

|                  |   |    |
|------------------|---|----|
| <b>Clause 59</b> | <b>Replacement of ch 11, pt 20 (Transitional provision for Disability Services and Other Legislation (NDIS) Amendment Act 2019)</b> | 3  |
|                  |   | 4  |
|                  | Chapter 11, part 20—  | 5  |
|                  | <i>omit, insert—</i>  | 6  |
|                  | <b>Part 20</b>  | 7  |
|                  | <b>Transitional provisions</b>  | 8  |
|                  | <b>for Disability Services</b>  | 9  |
|                  | <b>and Other Legislation</b>  | 10 |
|                  | <b>(Worker Screening)</b>   | 11 |
|                  | <b>Amendment Act 2020</b>   | 12 |

**590 New regulated employment** 13

- (1) This section applies if, immediately before the commencement— 14  
15
- (a) a person was employed in employment, or 16  
was continuing in employment, mentioned 17  
in schedule 1, section 6A; and 18
- (b) the employment was not regulated 19  
employment mentioned in schedule 1, 20  
section 6 as in force immediately before the 21  
commencement; and 22
- (c) the person does not hold a working with 23  
children authority. 24
- (2) Sections 175, 176A, 176C and 176E do not apply 25  
in relation to the employment until— 26
- (a) 3 months after the commencement; or 27
- (b) if the person makes a working with children 28  
check application within the period 29

---

|   |                            |
|---|----------------------------|
| mentioned in paragraph (a)—the application<br>is decided or withdrawn.  | 1<br>2                     |
| <b>591 New regulated business</b>   | 3                          |
| (1) This section applies if, immediately before the<br>commencement—  | 4<br>5                     |
| (a) a person was carrying on a business<br>mentioned in schedule 1, section 16A; and  | 6<br>7                     |
| (b) the business was not a regulated business<br>mentioned in schedule 1, section 16 as in<br>force immediately before the<br>commencement; and   | 8<br>9<br>10<br>11         |
| (c) the person does not hold a working with<br>children authority.  | 12<br>13                   |
| (2) Sections 176B and 176G do not apply in relation<br>to the person carrying on the business until—  | 14<br>15                   |
| (a) 3 months after the commencement; or   | 16                         |
| (b) if the person makes a working with children<br>check application within the period<br>mentioned in paragraph (a)—the application<br>is decided or withdrawn.  | 17<br>18<br>19<br>20       |
| <b>592 Information that may be given under section<br/>344</b>  | 21<br>22                   |
| (1) For section 344, the chief executive may give<br>information about a person to the chief executive<br>(disability services) regardless of whether the<br>information relates to a matter that happened<br>before or after the commencement. | 23<br>24<br>25<br>26<br>27 |
| (2) Without limiting subsection (1), the information<br>that may be given includes—   | 28<br>29                   |
| (a) information about a working with children<br>check application made before the<br>commencement; and   | 30<br>31<br>32             |

[s 60]

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- (b) information about a working with children authority or negative notice issued before the commencement; and 1  
2  
3
- (c) information mentioned in section 344(3)(c) to (e) obtained by the chief executive before the commencement. 4  
5  
6

**593 Continuing obligation of confidentiality** 7

- (1) This section applies if— 8
  - (a) immediately before the commencement, section 385 applied to a person in relation to particular information; and 9  
10  
11
  - (b) on the commencement, section 385 does not apply to the person in relation to the information. 12  
13  
14
- (2) Former section 385 continues to apply to the person in relation to the information as if the *Disability Services and Other Legislation (Worker Screening) Amendment Act 2020* had not been enacted. 15  
16  
17  
18  
19

- Clause 60 Amendment of sch 1, s 6 (Health, counselling and support services)** 20  
21
- (1) Schedule 1, section 6(2) and (4)— 22  
*omit.* 23
  - (2) Schedule 1, section 6(3), ‘or (2)’— 24  
*omit.* 25
  - (3) Schedule 1, section 6(3)(c)— 26  
*omit.* 27
  - (4) Schedule 1, section 6(5), definition *consumer*— 28  
*omit.* 29
  - (5) Schedule 1, section 6(3) and (5)— 30



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*renumber* as schedule 1, section 6(2) and (3). 1

|                  |   |                      |
|------------------|---|----------------------|
| <b>Clause 61</b> | <b>Insertion of new sch 1, s 6A</b>   | 2                    |
|                  | Schedule 1, after section 6—  | 3                    |
|                  | <i>insert</i> —   | 4                    |
|                  | <b>6A Disability work</b>   | 5                    |
|                  | (1) Employment is regulated employment if the usual functions of the employment include providing disability services to a child or children with disability. | 6<br>7<br>8<br>9     |
|                  | (2) Employment is regulated employment if the usual functions of the employment—  | 10<br>11             |
|                  | (a) include carrying out risk-assessed NDIS work for an NDIS service provider in relation to a child or children with disability; and                         | 12<br>13<br>14<br>15 |
|                  | (b) are to be carried out—  | 16                   |
|                  | (i) as an employee of an NDIS service provider; or  | 17<br>18             |
|                  | (ii) at a place where an NDIS service provider provides NDIS supports or services to a child or children with disability.                                     | 19<br>20<br>21<br>22 |
|                  | (3) Employment mentioned in subsection (1) or (2) is not regulated employment if—   | 23<br>24             |
|                  | (a) the employee is a person with disability at a place who receives disability services or NDIS supports or services at the place; or                        | 25<br>26<br>27       |
|                  | (b) the employee—   | 28                   |
|                  | (i) is a secondary school student on work experience; and   | 29<br>30             |
|                  | (ii) carries out risk-assessed NDIS work or provides disability services only under   | 31<br>32             |

[s 62]

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|                  |  |    |
|------------------|--|----|
|                  | the direct supervision of a person who                                     | 1  |
|                  | holds a working with children  | 2  |
|                  | authority; or  | 3  |
|                  | (c) the employee is a volunteer at a place                                 | 4  |
|                  | who—   | 5  |
|                  | (i) is a relative of a person who receives                                 | 6  |
|                  | disability services or NDIS supports or                                    | 7  |
|                  | services at the place; and   | 8  |
|                  | (ii) is at the place only to help with the care                            | 9  |
|                  | of the person.   | 10 |
|                  | (4) In this section—   | 11 |
|                  | <i>NDIS service provider</i> see the <i>Disability Services</i>            | 12 |
|                  | <i>Act 2006</i> , section 15(1).   | 13 |
|                  | <i>risk-assessed NDIS work</i> see the <i>Disability</i>                   | 14 |
|                  | <i>Services Act 2006</i> , section 45(2).                                  | 15 |
| <b>Clause 62</b> | <b>Amendment of sch 1, s 16 (Health, counselling and support services)</b> | 16 |
|                  | Schedule 1, section 16(1)(d)—  | 17 |
|                  | <i>omit.</i>   | 18 |
|                  |  | 19 |
| <b>Clause 63</b> | <b>Insertion of new sch 1, s 16A</b>                                       | 20 |
|                  | Schedule 1, after section 16—  | 21 |
|                  | <i>insert—</i>   | 22 |
|                  | <b>16A Disability work</b>   | 23 |
|                  | A business is a regulated business if the usual                            | 24 |
|                  | activities of the business include, or are likely to                       | 25 |
|                  | include—   | 26 |
|                  | (a) providing disability services to a child or                            | 27 |
|                  | children with disability; or   | 28 |
|                  | (b) providing NDIS supports or services to a                               | 29 |
|                  | child or children with disability.   | 30 |

|                  |   |                       |
|------------------|---|-----------------------|
| <b>Clause 64</b> | <b>Amendment of sch 7 (Dictionary)</b>  | 1                     |
| (1)              | Schedule 7, definitions <i>child-related service outlet, funded non-government service provider, NDIS non-government service provider, person with a disability, working with children check (exemption) application</i> and <i>working with children check (general) application</i> — | 2<br>3<br>4<br>5<br>6 |
|                  | <i>omit.</i>  | 7                     |
| (2)              | Schedule 7—   | 8                     |
|                  | <i>insert</i> —   | 9                     |
|                  | <i>combined application</i> see section 187A(2).  | 10                    |
|                  | <i>disability</i> see the <i>Disability Services Act 2006</i> , section 11.   | 11<br>12              |
|                  | <i>disability clearance</i> means an NDIS clearance or State clearance.   | 13<br>14              |
|                  | <i>disability exclusion</i> means an exclusion under the <i>Disability Services Act 2006</i> .  | 15<br>16              |
|                  | <i>disability worker screening application</i> means a disability worker screening application under the <i>Disability Services Act 2006</i> .  | 17<br>18<br>19        |
|                  | <i>interstate NDIS clearance</i> see the <i>Disability Services Act 2006</i> , section 50(3).   | 20<br>21              |
|                  | <i>interstate NDIS exclusion</i> see the <i>Disability Services Act 2006</i> , section 51(3).   | 22<br>23              |
|                  | <i>NDIS clearance</i> see the <i>Disability Services Act 2006</i> , section 50(2).  | 24<br>25              |
|                  | <i>NDIS supports or services</i> see the <i>Disability Services Act 2006</i> , section 12A.   | 26<br>27              |
|                  | <i>State clearance</i> see the <i>Disability Services Act 2006</i> , section 50(4).   | 28<br>29              |
|                  | <i>working with children check (exemption) application</i> means—   | 30<br>31              |

[s 64]

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- (a) an application for a working with children check for an exemption made under section 187(2); or
- (b) a combined application, to the extent it is an application mentioned in paragraph (a).
- working with children check (general) application*** means—
- (a) an application for a working with children check made under section 187(1); or
- (b) a combined application, to the extent it is an application mentioned in paragraph (a).
- (3) Schedule 7, definition *chief executive (disability services)*, after ‘*Disability Services Act 2006*’—
- insert—*
- , part 5
- (4) Schedule 7, definition *disciplinary information*, after paragraph (a)—
- insert—*
- (aaa) under the *Disability Services Act 2006*, section 138ZG, to the extent the information is disciplinary information or NDIS disciplinary or misconduct information under that Act; or
- (5) Schedule 7, definition *disciplinary information*, paragraphs (aaa) to (h)—
- renumber* as paragraphs (b) to (j).

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|                   |   |                                  |
|-------------------|---|----------------------------------|
| <b>Part 4</b>     | <b>Amendment of other legislation</b>   | 1                                |
| <b>Division 1</b> | <b>Amendment of Evidence Act 1977</b>   | 2                                |
| <b>Clause 65</b>  | <b>Act amended</b>  | 3                                |
|                   | This division amends the <i>Evidence Act 1977</i> .   | 4                                |
| <b>Clause 66</b>  | <b>Amendment of s 93AA (Unauthorised possession of, or dealing in, s 93A criminal statements)</b>   | 5<br>6                           |
|                   | (1) Section 93AA(2A)(a) and (b)—  | 7                                |
|                   | <i>omit, insert—</i>  | 8                                |
|                   | (a) preparing a section 93A transcript, or a summary of a section 93A transcript, to give to the chief executive (working with children) or chief executive (disability services) as mentioned in paragraph (b); or   | 9<br>10<br>11<br>12<br>13        |
|                   | (b) giving a section 93A transcript, or a summary of a section 93A transcript, to the chief executive (working with children) or chief executive (disability services) under an employment-screening Act.   | 14<br>15<br>16<br>17<br>18       |
|                   | (2) Section 93AA—   | 19                               |
|                   | <i>insert—</i>  | 20                               |
|                   | (2AB) The chief executive (working with children) or chief executive (disability services) has authority for subsection (1) if the chief executive has the possession or does the thing mentioned in that subsection for the purpose of, under an employment-screening Act— | 21<br>22<br>23<br>24<br>25<br>26 |
|                   | (a) giving a section 93A transcript, or a summary of a section 93A transcript, that is in the chief executive's possession to—  | 27<br>28<br>29                   |

[s 66]

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- (i) for the chief executive (working with children)—the chief executive (disability services); or
- (ii) for the chief executive (disability services)—the chief executive (working with children); or
- (b) making an employment-screening decision.
- (3) Section 93AA(2B)(a)—  
*omit, insert—*
- (a) was given to the chief executive (working with children) or chief executive (disability services) as mentioned in subsection (2A)(b) or (2AB); and
- (4) Section 93AA(2C)(a) and (2F)(a), ‘a WWC’—  
*omit, insert—*  
an employment-screening
- (5) Section 93AA(2E), ‘A WWC’—  
*omit, insert—*  
An employment-screening
- (6) Section 93AA(3), definitions *chief executive (employment screening)*, *employment-screening decision*, *former CCYPCG commissioner* and *WWC applicant—*  
*omit.*
- (7) Section 93AA(3)—  
*insert—*
- chief executive (disability services)*** means the chief executive of the department in which the *Disability Services Act 2006*, part 5 is administered.
- chief executive (working with children)*** means the chief executive of the department in which the *Working with Children Act* is administered.

- 
- employment-screening Act*** means— 1
- (a) the Working with Children Act; or 2
  - (b) the *Disability Services Act 2006*. 3
- employment-screening applicant***, for a section 4  
93A transcript, means a person— 5
- (a) who allegedly committed the alleged 6  
offence to which the transcript relates; and 7
  - (b) about whom— 8
    - (i) the chief executive (working with 9  
children) or the chief executive 10  
(disability services) has made an 11  
employment-screening decision; or 12
    - (ii) the chief executive (working with 13  
children) or the chief executive 14  
(disability services) is about to make an 15  
employment-screening decision. 16
- employment-screening decision*** means— 17
- (a) an employment-screening decision under 18  
the Working with Children Act; or 19
  - (b) a decision under the *Disability Services Act* 20  
*2006* about— 21
    - (i) whether a clearance or exclusion 22  
should be issued to a person; or 23
    - (ii) whether a clearance or exclusion issued 24  
to a person should be cancelled. 25

**Division 2**                      **Amendment of Police Powers and** 26  
   **Responsibilities Act 2000** 27

- Clause 67**      **Act amended** 28
- This division amends the *Police Powers and Responsibilities* 29  
                                 *Act 2000*. 30

[s 68]

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|                  |  |                |
|------------------|--|----------------|
| <b>Clause 68</b> | <b>Replacement of ch 23, pt 1A, hdg (Provision for Working with Children (Risk Management and Screening) Act 2000)</b>                 | 1<br>2<br>3    |
|                  | Chapter 23, part 1A, heading—  | 4              |
|                  | <i>omit, insert—</i>   | 5              |
|                  | <b>Part 1A</b>   | 6              |
|                  | <b>Provisions for employment-screening laws</b>  | 7<br>8         |
| <b>Clause 69</b> | <b>Insertion of new s 789B</b>   | 9              |
|                  | After section 789A—  | 10             |
|                  | <i>insert—</i>   | 11             |
|                  | <b>789B Power to demand production of disability worker clearance card</b>   | 12<br>13       |
|                  | (1) This section applies if a police officer knows or reasonably suspects—   | 14<br>15       |
|                  | (a) a person holds a disability worker clearance card; and   | 16<br>17       |
|                  | (b) the person—  | 18             |
|                  | (i) has been charged with a disqualifying offence within the meaning of the <i>Disability Services Act 2006</i> ; or                   | 19<br>20<br>21 |
|                  | (ii) is a disqualified person within the meaning of the <i>Disability Services Act 2006</i> .  | 22<br>23<br>24 |
|                  | (2) The police officer may require the person to immediately give the person's disability worker clearance card to the police officer. | 25<br>26<br>27 |
|                  | (3) The person must comply with the requirement under subsection (2), unless the person has a reasonable excuse.                       | 28<br>29<br>30 |
|                  | Maximum penalty—100 penalty units.   | 31             |



- 
- (4) A police officer who is given a person's disability worker clearance card must give the person a receipt for the card. 1  
2  
3
- (5) A police officer must give the disability worker clearance card to the chief executive (disability services). 4  
5  
6
- (6) A police officer may retain the disability worker clearance card until it is given to the chief executive (disability services). 7  
8  
9
- (7) For exercising a power under subsection (2), the police officer is taken to be investigating a matter as mentioned in section 19. 10  
11  
12
- (8) In this section— 13
- chief executive (disability services)* means the chief executive of the department in which the *Disability Services Act 2006*, part 5 is administered. 14  
15  
16  
17
- disability worker clearance card* means— 18
- (a) a clearance card under the *Disability Services Act 2006*; or 19  
20
- (b) a card or other document that corresponds to a clearance card mentioned in paragraph (a) issued under a law of another State. 21  
22  
23

**Part 5** **Minor and consequential amendments** 24  
25

- Clause 70** **Acts amended** 26
- Schedule 1 amends the Acts it mentions. 27

|                   |  |                            |
|-------------------|--|----------------------------|
| <b>Schedule 1</b> | <b>Minor and consequential amendments</b>  | 1<br>2                     |
|                   | section 70   | 3                          |
|                   | <b>Disability Services Act 2006</b>  | 4                          |
| 1                 | <b>Section 10—</b><br><i>omit.</i>   | 5<br>6                     |
| 2                 | <b>Section 32A(1)(b), from ‘a service provider that receives’ to ‘disability services’—</b><br><i>omit, insert—</i><br>a funded service provider   | 7<br>8<br>9<br>10          |
| 3                 | <b>Sections 142, 146(1), 156(3)(c), 173(2)(d)(iii), 183(c), 191(1)(a) and 194(3) and (4)(b), after ‘disability services’—</b><br><i>insert—</i><br>or NDIS supports or services                  | 11<br>12<br>13<br>14       |
| 4                 | <b>Section 144, heading, ‘pt 6’—</b><br><i>omit, insert—</i><br>part   | 15<br>16<br>17             |
| 5                 | <b>Section 144, definitions <i>community access services, respite services</i> and <i>restricting access</i>, after ‘disability services’—</b><br><i>insert—</i><br>or NDIS supports or services | 18<br>19<br>20<br>21<br>22 |

|           |  |               |
|-----------|--|---------------|
| <b>6</b>  | <b>Section 144, definitions <i>community access services</i> and <i>respite services</i>, paragraph (b), after ‘the Commonwealth’—</b> | 1<br>2<br>3   |
|           | <i>insert—</i>   | 4             |
|           | , including under the <i>National Disability Insurance Scheme Act 2013</i> (Cwlth)   | 5<br>6        |
| <b>7</b>  | <b>Section 195(7)—</b>   | 7             |
|           | <i>insert—</i>   | 8             |
|           | <b><i>service outlet</i></b> means a place at which disability services or NDIS supports or services are provided.                     | 9<br>10<br>11 |
| <b>8</b>  | <b>Section 217, heading, ‘div 2’—</b>  | 12            |
|           | <i>omit, insert—</i>   | 13            |
|           | <b>division</b>  | 14            |
| <b>9</b>  | <b>Section 217, definition <i>adult with a skills deficit</i>, after ‘disability services’—</b>  | 15<br>16      |
|           | <i>insert—</i>   | 17            |
|           | or NDIS supports or services   | 18            |
| <b>10</b> | <b>Section 218(3), definition <i>keep and implement</i>, paragraph (b), after ‘disability services’—</b>                               | 19<br>20      |
|           | <i>insert—</i>   | 21            |
|           | or NDIS supports or services   | 22            |
| <b>11</b> | <b>Section 233(1), ‘and the NDIS Act’—</b>   | 23            |
|           | <i>omit, insert—</i>   | 24            |
|           | , including the <i>National Disability Insurance Scheme Act 2013</i> (Cwlth),  | 25<br>26      |

Schedule 1

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|           |  |    |
|-----------|--|----|
| <b>12</b> | <b>Section 233(7), definition <i>eligible person</i>, ‘NDIS Act’—</b>  | 1  |
|           | <i>omit, insert—</i>   | 2  |
|           | <i>National Disability Insurance Scheme Act 2013</i>   | 3  |
|           | (Cwlth)  | 4  |
| <b>13</b> | <b>Schedule 6, authorising provision, ‘section 111’—</b>   | 5  |
|           | <i>omit, insert—</i>   | 6  |
|           | schedule 8, definition <i>schedule 6 or 7 offence</i>  | 7  |
| <b>14</b> | <b>Schedule 7, authorising provision, ‘section 111’—</b>   | 8  |
|           | <i>omit, insert—</i>   | 9  |
|           | schedule 8, definition <i>schedule 6 or 7 offence</i>  | 10 |
| <b>15</b> | <b>Schedule 8, definitions <i>amended Act, amending Act, authorised guardian, commencement, compliance period, new disqualified person, new disqualifying offence, new relevant disqualified person, new serious offence, prescribed police information, previous service provider, repealed Act, stage 2 commencement date, transitional period</i> and <i>unamended Act—</i></b> | 11 |
|           |  | 12 |
|           |  | 13 |
|           |  | 14 |
|           |  | 15 |
|           |  | 16 |
|           | <i>omit.</i>   | 17 |
|           |  | 18 |
| <b>16</b> | <b>Amendment of references to person or people with a disability</b>   | 19 |
|           |  | 20 |
|           | All provisions of the Act are amended by—  | 21 |
|           | (a) omitting ‘person with a disability’ and inserting ‘person with disability’; and  | 22 |
|           |  | 23 |
|           | (b) omitting ‘Person with a disability’ and inserting ‘Person with disability’; and  | 24 |
|           |  | 25 |
|           | (c) omitting ‘people with a disability’ and inserting ‘people with disability’; and  | 26 |
|           |  | 27 |
|           | (d) omitting ‘People with a disability’ and inserting ‘People with disability’.  | 28 |
|           |  | 29 |

|           |   |                |
|-----------|---|----------------|
| <b>17</b> | <b>Amendment of various provisions</b>  | 1              |
|           | Each of the following provisions is amended by omitting ‘non-government’—   | 2<br>3         |
|           | • part 6, division 4, subdivision 3, heading, note  | 4              |
|           | • part 6, division 7, subdivision 2, heading, note  | 5              |
|           | • section 200E  | 6              |
|           | • section 200G(1)(d)  | 7              |
|           | • section 200M(1)   | 8              |
|           | • section 200W  | 9              |
|           | • section 200X(1)   | 10             |
|           | • section 215   | 11             |
|           | • section 226(1)(a)(ii) and (3)(b)  | 12             |
|           | • section 230   | 13             |
|           | • section 231   | 14             |
|           | <br>  |                |
|           | <b>Guardianship and Administration Act 2000</b>   | 15             |
| <br>      |   |                |
| <b>1</b>  | <b>Section 80U, definition <i>disability services</i>—</b>  | 16             |
|           | <i>omit, insert—</i>  | 17             |
|           | <i>disability services</i> means disability services or NDIS supports or services under the <i>Disability Services Act 2006</i> . | 18<br>19<br>20 |
| <br>      |   |                |
| <b>2</b>  | <b>Section 80U, definition <i>DSA</i> and schedule 4, definition <i>DSA</i>—</b>  | 21<br>22       |
|           | <i>omit.</i>  | 23             |

Schedule 1

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|          |   |    |
|----------|---|----|
| <b>3</b> | <b>Section 80U, ‘DSA’, all occurrences not already amended by this schedule—</b>  | 1  |
|          | <i>omit, insert—</i>  | 2  |
|          | <i>Disability Services Act 2006</i>   | 3  |
|          |   | 4  |
| <b>4</b> | <b>Section 80V(2)(e), ‘DSA, section 144’—</b>   | 5  |
|          | <i>omit, insert—</i>  | 6  |
|          | <i>Disability Service Act 2006, section 149</i>   | 7  |
|          |   |    |
| <b>5</b> | <b>Section 80ZF(4)(b), 80ZO(a), 80ZS(5), definition restricting access, 80ZT(1) and (3)(a) and (f) and 80ZU, ‘DSA’—</b> | 8  |
|          | <i>omit, insert—</i>  | 9  |
|          | <i>Disability Services Act 2006</i>   | 10 |
|          |   | 11 |
|          |   | 12 |
|          |   |    |
|          | <b>Working with Children (Risk Management and Screening) Act 2000</b>   | 13 |
|          |   | 14 |
| <b>1</b> | <b>Section 290A, after ‘person, the chief’—</b>   | 15 |
|          | <i>insert—</i>  | 16 |
|          | executive   | 17 |
|          |   |    |
| <b>2</b> | <b>Section 295(2), ‘clearance’—</b>   | 18 |
|          | <i>omit, insert—</i>  | 19 |
|          | authority   | 20 |
|          |   |    |
| <b>3</b> | <b>Section 297(1), note, 301(1), note, 302(3), note, 304C(1), note and 304F(1), note, ‘, 343 and 344’—</b>              | 21 |
|          | <i>omit, insert—</i>  | 22 |
|          |   | 23 |

|           |  |    |
|-----------|--|----|
|           | and 343  | 1  |
| <b>4</b>  | <b>Section 298(3), ‘, 342 or 344’—</b>                                     | 2  |
|           | <i>omit, insert—</i>   | 3  |
|           | or 342   | 4  |
| <b>5</b>  | <b>Sections 300 and 301, heading, ‘notice’—</b>                            | 5  |
|           | <i>omit, insert—</i>   | 6  |
|           | <b>authority</b>   | 7  |
| <b>6</b>  | <b>Sections 304I(2)(a)(i) and 304N(3)(a)(i), ‘section 289(2)’—</b>         | 8  |
|           | <i>omit, insert—</i>   | 9  |
|           | section 289A   | 10 |
| <b>7</b>  | <b>Sections 304I(2)(a)(ii) and 304N(3)(a)(ii), ‘section 231(2)’—</b>       | 11 |
|           | <i>omit, insert—</i>   | 12 |
|           | section 231A   | 13 |
| <b>8</b>  | <b>Section 347, note—</b>  | 14 |
|           | <i>omit.</i>   | 15 |
| <b>9</b>  | <b>Schedule 6, all references to ‘person with a disability’—</b>           | 16 |
|           | <i>omit, insert—</i>   | 17 |
|           | person with disability   | 18 |
| <b>10</b> | <b>Schedule 7, definition <i>guardian</i>, ‘person with a disability’—</b> | 19 |
|           | <i>omit, insert—</i>   | 20 |
|           | person with disability   | 21 |
|           |  | 22 |

Schedule 1

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|           |   |   |
|-----------|---|---|
| <b>11</b> | <b>Schedule 7, definition <i>working with children card</i>,<br/>paragraph (b)(ii), ‘person’—</b> | 1 |
|           | <i>omit, insert—</i>  | 2 |
|           | <i>omit, insert—</i>  | 3 |
|           | person’s authority  | 4 |

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